



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

Agenda Item # 1

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

PLANNING COMMISSION INTERVIEWS/APPOINTMENTS

RECOMMENDED ACTIONS:

1. **Conduct** interviews
2. **Appoint** to fill four (4) vacancies on the Planning Commission, terms ending June 1, 2007

EXECUTIVE SUMMARY:

Four Planning Commission terms of office were due to expire on June 1, 2003. The Council extended the terms of the four Planning Commissioners until such time that the Council was able to fill the vacancies. Extending the terms of the four Commissioners allowed the scheduling of interviews at a time when Council Member Tate would be available to sit in on the interview/appointment process. The Council agreed to set June 18 as the interview date.

The City Clerk's Office solicited applications to fill four vacancies. Six applications were received as follows: Christopher K. Buss, Robert H. Engles, Robert L. Escobar, Ralph J. Lyle, Ray Milhem, and Joseph H. Mueller. Their applications are attached for Council reference. Staff recommends that the City Council interview each Planning Commission applicant. Upon conclusion of the interview process, staff recommends that the Council appoints to fill four vacancies on the Planning Commission to serve four-year terms; terms ending June 1, 2007.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

MAY 2003 FINANCE & INVESTMENT REPORT

RECOMMENDED ACTION:

Accept and File Report

EXECUTIVE SUMMARY:

Attached is the monthly Finance and Investment Report for the period ended May 31, 2003. The report covers the first eleven months of activity for the 2002/2003 fiscal year. A summary of the report is included on the first page for the City Council's benefit.

The monthly Finance and Investment Report is presented to the City Council and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity in the City, including the Redevelopment Agency. The Redevelopment Agency receives a separate report for the fiscal activity of the Agency at the meeting of the Agency. Presenting this report is consistent with the goal of *Maintaining and Enhancing the Financial Viability of the City*.

FISCAL IMPACT: as presented

Agenda Item # 2

Prepared By:

Finance Director

Submitted By:

City Manager

CITY OF MORGAN HILL
Monthly Financial and Investment Reports
May 31, 2003 – 92% Year Complete



CITY OF MORGAN HILL

Prepared by:
FINANCE DEPARTMENT



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2002/03
FOR THE MONTH OF MAY 2003 - 92% OF YEAR COMPLETE

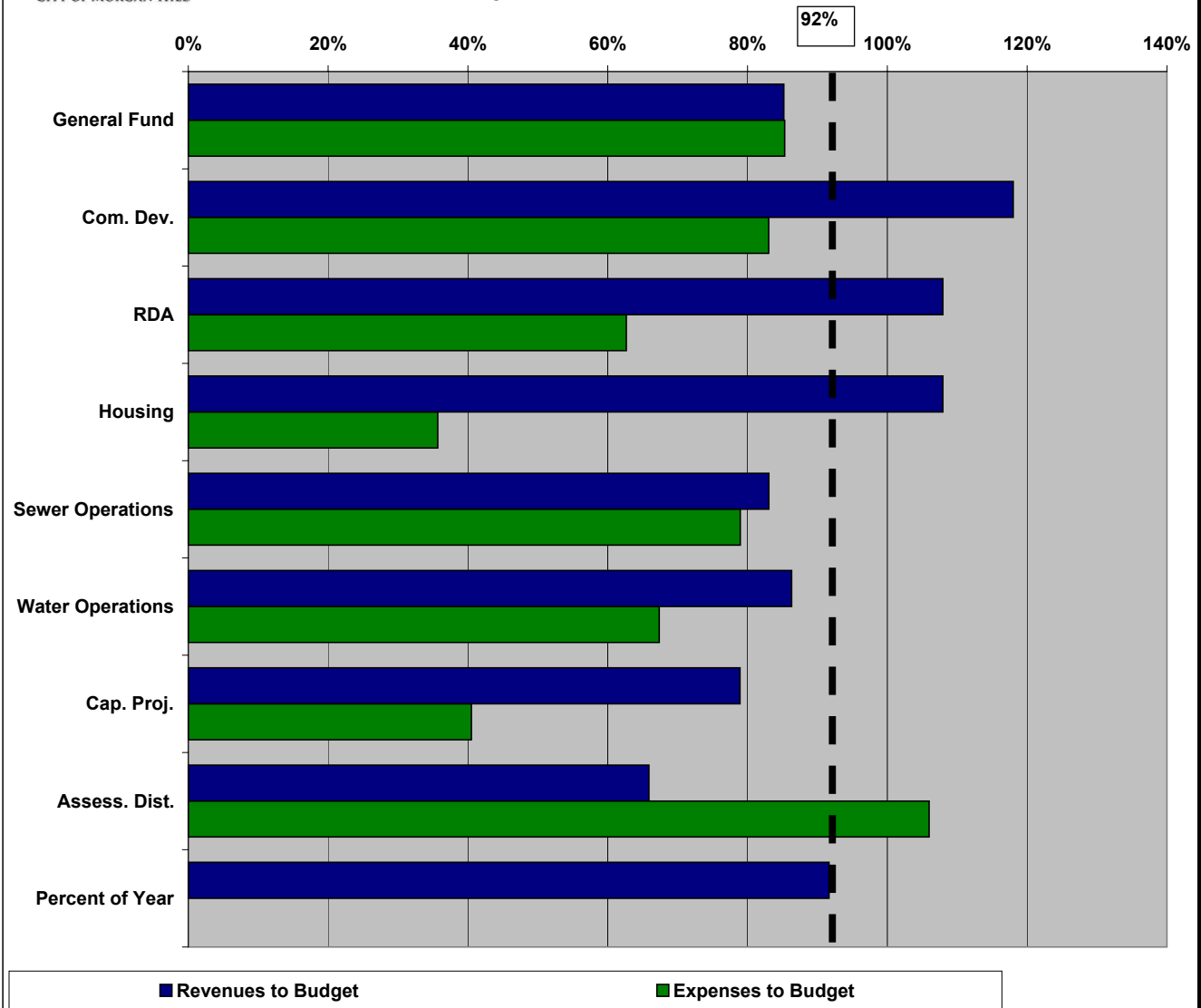
This analysis of the status of the City's financial situation reflects 92% of the year.

- * **General Fund** - The revenues received in the General Fund were approximately 85% of the budgeted revenues. Property related taxes received through May 31 totaled 105% of budget. The amount of Sales Tax collected was 78% of the sales tax revenue budget and was 11% less than at this time last year. An amount equal to 87% of the budget for franchise fees has been collected to date. Business license and other permit collections were 90% of the budgeted amount. Motor Vehicle-in-Lieu revenues were 95% of the budgeted amounts, up 9% compared to last year. Interest & Other Revenue were only 64% of budget and reflected interest earnings through March. Interest earnings for the months of April and May will be posted with quarterly earnings for the quarter ended June and are not reflected in this total. The amount of Interest & Other Revenue collected was low because the City did not begin to collect rental income for Community & Cultural Center rental activity until half way through the fiscal year and because declining interest rates have generated less interest earnings.
- * The General Fund expenditures and encumbrances to date totaled 85% of the budgeted appropriations. This total includes several activities for projects started in the last fiscal year; these projects and the related encumbrances were carried forward from the prior fiscal year.
- * **Transient Occupancy (Hotel) Tax** - The TOT rate is 10%. The City received \$670,866 in revenue for the first three quarters of the fiscal year. The amount received was 4% less than the amount received in the same period for the prior year.
- * **Community Development** - Revenues were 118% of budget, which was 38% more than the amount collected in the like period for the prior year. Increased revenues were received from building, planning, and engineering fees. Planning expenditures plus encumbrances were 89% of budget, Building has expended or encumbered 77% of budget and Engineering 81%. Community Development has expended or encumbered a combined total of 83% of the 2002/03 budget, including \$322,238 in encumbrances.
- * **RDA and Housing** - Property tax increment revenues of \$17,174,588, or 111% of budget, have been received as of May 31. This total has been reduced by \$581,354 which the Redevelopment Agency paid back to the County in May 2003, as required by a State law enacted to help balance the 2002/03 State budget prior to adoption of that budget. Redevelopment expenditures plus encumbrances for Business Assistance and Housing were 57% of budget, including \$3,421,825 in encumbrances.
- * **Water and Sewer Operations**- Water Operations revenues, including service fees, were 86% of budget. Expenditures totaled 67% of appropriations. Sewer Operations revenues, including service fees, were 83% of budget. Expenditures for sewer operations were 79% of budget.
- * **Investments maturing/called/sold during this period.** - During the month of May, \$2 million in federal agency investments was called, due to declining interest rates, and \$2 million was reinvested in federal agency investments. Further details of all City investments are contained on pages 6-8 of this report.



Morgan Hill YTD Revenue & Expense Summary

May 31, 2003 – 92% Year Complete



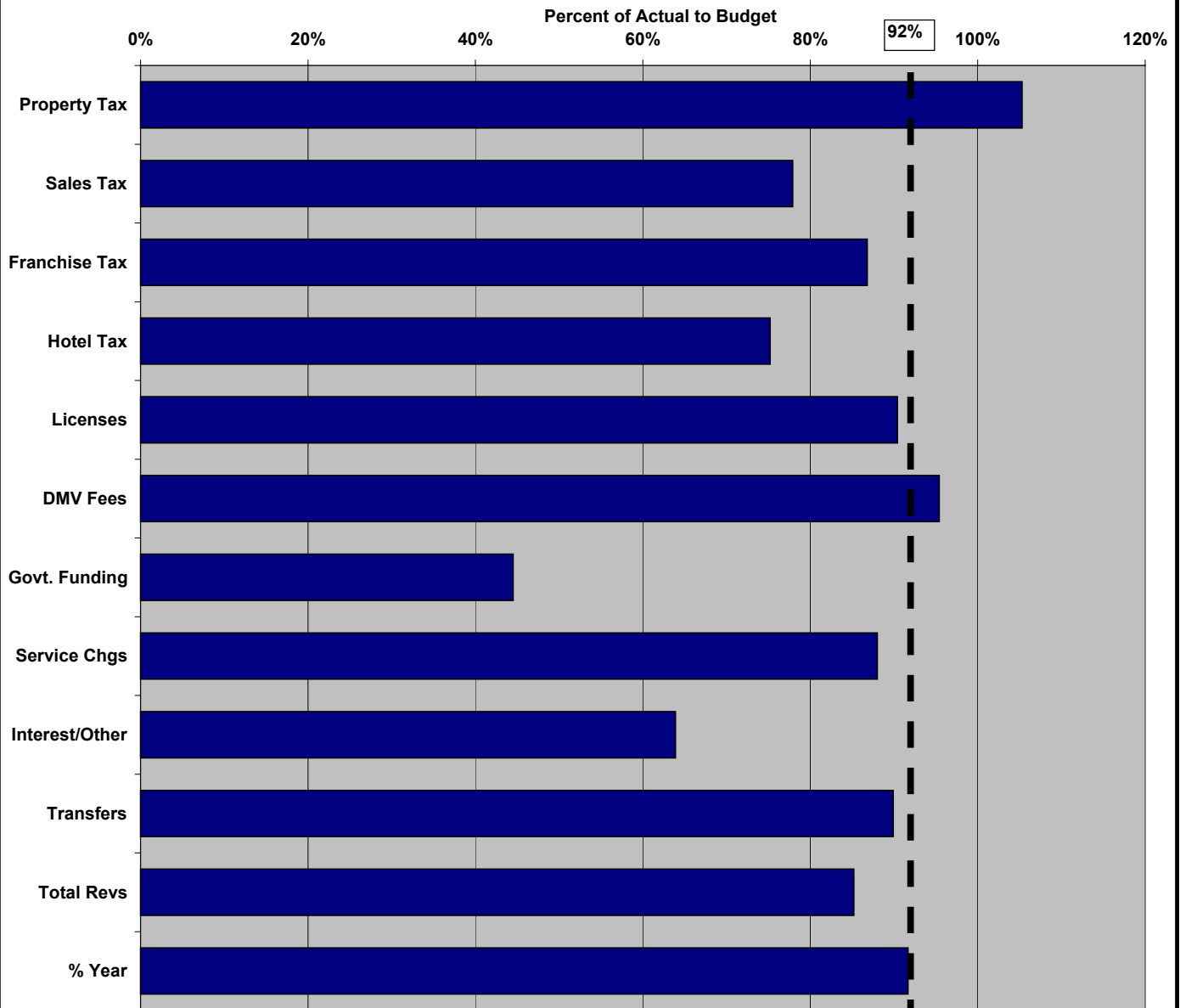
FUND NAME	REVENUES		EXPENSES		5/31/2003 UNRESTRICTED FUND BALANCE
	ACTUAL	% OF BUDGET	ACTUAL plus ENCUMBRANCES	% OF BUDGET	
General Fund	\$13,853,155	85%	\$14,415,287	85%	\$10,670,294
Community Development	2,500,083	118%	3,081,666	83%	1,295,944
RDA	13,853,059	108%	20,342,646	63%	14,234,497
Housing/CDBG	4,069,126	108%	2,367,263	36%	5,817,001
Sewer Operations	4,815,298	83%	5,471,806	79%	3,717,884
Sewer Other	1,602,829	79%	3,076,994	40%	11,336,254
Water Operations	5,576,142	86%	6,632,318	67%	2,386,042
Water Other	1,518,417	42%	3,205,689	44%	4,133,536
Other Special Revenues ¹	898,059	82%	1,500,733	55%	2,811,663
Capital Projects & Streets Funds	4,731,852	79%	5,594,937	41%	22,417,137
Debt Service Funds	144,880	66%	520,191	106%	364,481
Internal Service	4,486,163	111%	4,014,480	97%	4,604,108
Agency	1,305,491	51%	3,424,263	100%	3,739,851
TOTAL FOR ALL FUNDS	\$59,354,554	89%	\$73,648,273	63%	\$87,528,692

¹ Includes all Special Revenue Funds except Community Development, CDBG, and Street Funds



Morgan Hill YTD General Fund Revenues

May 31, 2003 – 92% Year Complete

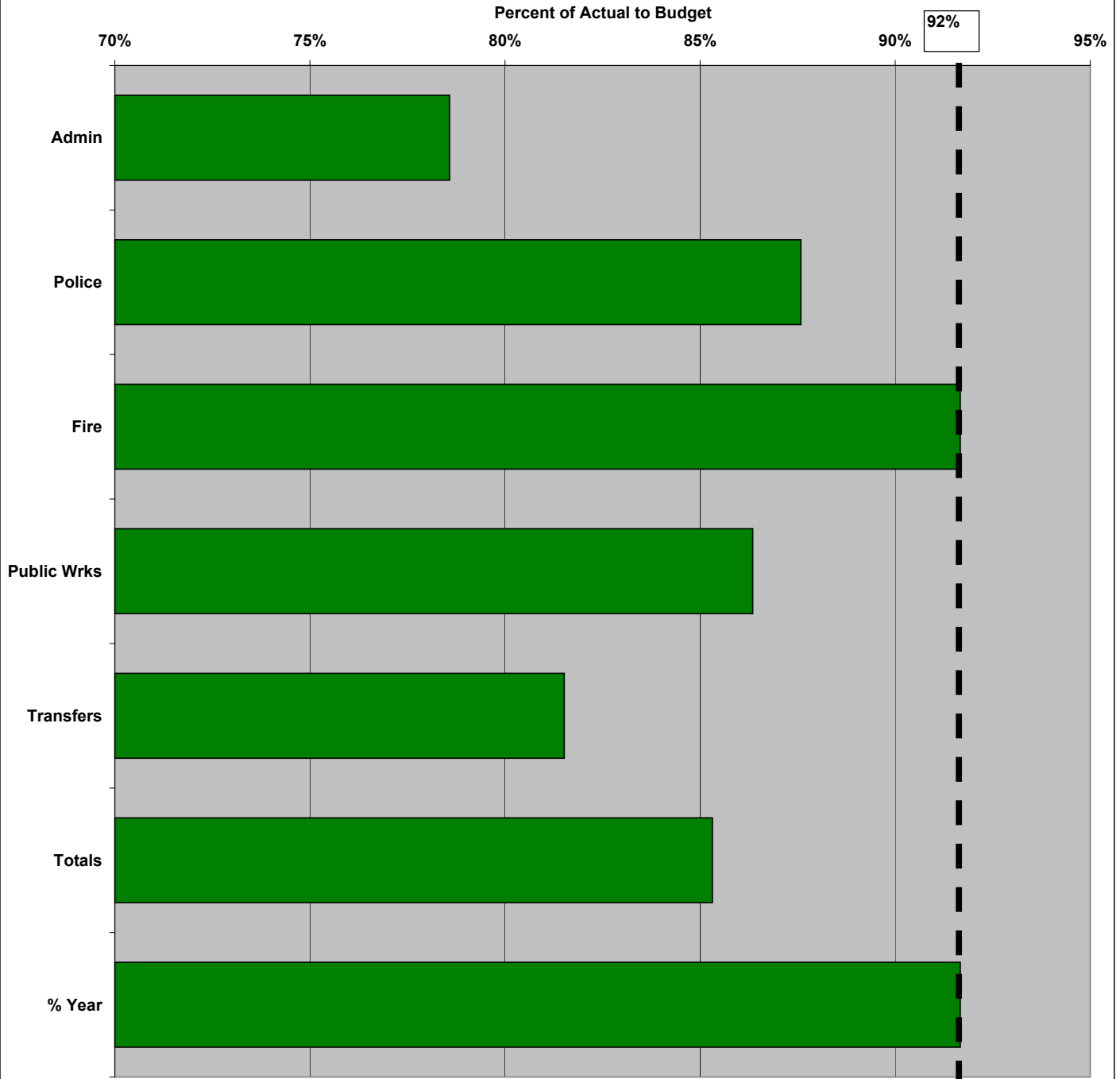


REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
PROPERTY RELATED TAXES	\$2,228,000	\$2,347,026	105%	\$2,191,399	7%
SALES TAXES	\$5,618,400	\$4,378,743	78%	\$4,900,243	-11%
FRANCHISE FEE	\$965,000	\$837,592	87%	\$810,890	3%
HOTEL TAX	\$892,000	\$670,866	75%	\$699,429	-4%
LICENSES/PERMITS	\$209,450	\$189,425	90%	\$198,539	-5%
MOTOR VEHICLE IN LIEU	\$1,965,000	\$1,874,335	95%	\$1,718,810	9%
FUNDING - OTHER GOVERNMENTS	\$228,300	\$101,655	45%	\$222,578	-54%
CHARGES CURRENT SERVICES	\$2,312,076	\$2,035,209	88%	\$1,742,288	17%
INTEREST & OTHER REVENUE	\$917,850	\$586,750	64%	\$531,988	10%
TRANSFERS IN	\$925,332	\$831,554	90%	\$494,991	68%
TOTALS	\$16,261,408	\$13,853,155	85%	\$13,511,155	3%



Morgan Hill YTD General Fund Expenditures

May 31, 2003 – 92% Year Complete



Expenditure Category	Budget	Actual Plus Encumbrances	% of Budget
ADMINISTRATION	5,412,625	4,253,213	79%
POLICE	6,443,305	5,643,180	88%
FIRE	3,623,938	3,321,943	92%
PUBLIC WORKS	879,230	759,201	86%
TRANSFERS OUT	537,000	437,750	82%
TOTALS	\$ 16,896,098	\$ 14,415,287	85%



City of Morgan Hill
Fund Activity Summary - Fiscal Year 2002/03
For the Month of May 31, 2003
92% of Year Completed

Fund No.	Fund	Fund Balance 06-30-02	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		Cash and Investments	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved	Unrestricted	Restricted ²
010	GENERAL FUND	\$11,232,426	\$13,853,155	85%	\$14,269,103	84%	(\$415,948)	\$146,184	\$10,670,294	\$11,124,435	\$4,150
TOTAL GENERAL FUND		\$11,232,426	\$13,853,155	85%	\$14,269,103	84%	(\$415,948)	\$146,184	\$10,670,294	\$11,124,435	\$4,150
202	STREET MAINTENANCE	\$1,615,397	\$1,658,942	92%	\$1,620,099	49%	\$38,843	\$804,733	\$849,507	\$1,558,390	\$10,794
204/205	PUBLIC SAFETY/SUPPL. LAW	\$641,108	\$155,869	97%	\$292,993	93%	(\$137,124)		\$503,984	\$503,983	
206	COMMUNITY DEVELOPMENT	\$1,877,527	\$2,500,083	118%	\$2,759,428	74%	(\$259,345)	\$322,238	\$1,295,944	\$1,689,286	
207	GENERAL PLAN UPDATE	\$110,827	\$112,866	99%	\$15,048	7%	\$97,818	\$154,699	\$53,946	\$208,806	
210	COMMUNITY CENTER	\$754,628	\$122,594	103%	\$476,971	92%	(\$354,377)		\$400,251	\$400,251	
215 / 216	CDBG	\$566,540	\$18,381	8%	\$30,649	13%	(\$12,268)	367,796	\$186,476	\$128,677	
220	MUSEUM RENTAL	\$3,807	\$74	35%	\$2,595	85%	(\$2,521)		\$1,286	\$1,287	
225	ASSET SEIZURE	\$56,567	\$1,246	61%	\$20,000	59%	(\$18,754)		\$37,813	\$37,813	
226	OES/FEMA			n/a							
229	LIGHTING AND LANDSCAPE	\$64,203	\$68,646	64%	\$122,336	88%	(\$53,690)	\$10,455	\$58	\$10,809	
232	ENVIRONMENT PROGRAMS	\$465,250	\$320,921	84%	\$238,822	62%	\$82,099	\$54,445	\$492,904	\$549,664	
234	MOBILE HOME PK RENT STAB.	\$53,314	\$17,826	711%	\$45,307	64%	(\$27,481)		\$25,833	\$25,833	
235	SENIOR HOUSING	\$236,123	\$17,592	21%			\$17,592		\$253,715	\$253,715	
236	HOUSING IN LIEU	\$1,028,510	\$27,519	73%	16,235	64%	\$11,284	4,265	\$1,035,529	\$1,039,794	
240	EMPLOYEE ASSISTANCE		\$52,906	65%	46,562	2%	\$6,344		\$6,344	\$6,344	
TOTAL SPECIAL REVENUE FUNDS		\$7,473,801	\$5,075,465	97%	\$5,687,045	57%	(\$611,580)	\$1,718,631	\$5,143,590	\$6,414,652	\$10,794
301	PARK DEV. IMPACT FUND	\$2,871,149	\$439,447	39%	\$146,563	5%	\$292,884	\$37,534	\$3,126,499		\$3,164,032
302	PARK MAINTENANCE	\$2,692,750	\$299,453	193%	\$103,809	61%	\$195,644		\$2,888,394	\$2,888,393	
303	LOCAL DRAINAGE	\$2,534,182	\$343,945	109%	\$10,421	0%	\$333,524	\$3,500	\$2,864,206		\$2,867,706
304	LOCAL DRAINAGE/NON-AB1600	\$3,067,721	\$265,512	190%	\$83,304	21%	\$182,208		\$3,249,929	\$3,109,928	
305	OFF-STREET PARKING	\$3,886	\$104	68%			\$104		\$3,990	\$3,991	
306	OPEN SPACE	\$244,803	\$118,670	n/a			\$118,670		\$363,473	\$363,473	
309	TRAFFIC IMPACT FUND	\$2,870,728	\$720,618	67%	\$875,842	57%	(\$155,224)	\$332,507	\$2,382,997		\$2,703,504
311	POLICE IMPACT FUND	\$1,168,761	\$77,126	119%	\$80,572	8%	(\$3,446)		\$1,165,315		\$1,165,315
313	FIRE IMPACT FUND	\$2,515,636	\$203,701	122%	\$151,965	100%	\$51,736		\$2,567,372		\$2,567,373
317	REDEVELOPMENT AGENCY	\$22,668,149	\$13,853,059	108%	\$16,945,059	52%	(\$3,092,000)	5,341,652	\$14,234,497	\$17,614,278	
327 / 328	HOUSING	\$20,823,005	\$4,050,745	114%	\$2,305,169	32%	\$1,745,576	16,938,055	\$5,630,525	\$5,657,801	
340	MORGAN HILL BUS.RANCH I	\$46,679	\$1,253	69%			\$1,253		\$47,932	\$47,932	
342	MORGAN HILL BUS.RANCH II	\$52,423	\$1,407	69%			\$1,407		\$53,830	\$53,830	
346	PUBLIC FACILITIES NON-AB1600	\$1,033,867	\$282,050	111%			\$282,050		\$1,315,917	\$1,128,417	
347	PUBLIC FACILITIES IMPACT FUND	\$1,058,347	\$80,146	54%	\$389,231	34%	(\$309,085)	\$868,236	(\$118,974)		\$712,592
348	LIBRARY IMPACT FUND	\$368,112	\$39,919	110%	\$846	407%	\$39,073		\$407,185		\$407,184
350	UNDERGROUNDING	\$1,135,781	\$199,559	29%	\$85,775	12%	\$113,784		\$1,249,565	\$1,249,566	
TOTAL CAPITAL PROJECT FUNDS		\$65,155,979	\$20,976,714	102%	\$21,178,556	42%	(\$201,842)	\$23,521,484	\$41,432,652	\$32,117,609	\$13,587,706
527	HIDDEN CREEK			n/a							
533	DUNNE/CONDIT			n/a							
536	ENCINO HILLS	\$65,771	\$1,755	42%	\$500		\$1,255		\$67,026	\$67,026	
539	MORGAN HILL BUS. PARK	\$11,486	\$297	4%	\$562		(\$265)		\$11,221	\$11,220	
542	SUTTER BUSINESS PARK	\$24,079	\$646	10%			\$646		\$24,725	\$24,725	
545	COCHRANE BUSINESS PARK	\$606,826	\$125,042	79%	\$477,145	106%	(\$352,103)		\$254,723	\$73,773	\$180,950
551	JOLEEN WAY	\$31,630	\$17,140	40%	\$41,984	99%	(\$24,844)		\$6,786	(\$10,464)	\$17,250
TOTAL DEBT SERVICE FUNDS		\$739,792	\$144,880	66%	\$520,191	106%	(\$375,311)		\$364,481	\$166,280	\$198,200



City of Morgan Hill
Fund Activity Summary - Fiscal Year 2002/03
For the Month of May 31, 2003
92% of Year Completed

Fund No.	Fund	Fund Balance 06-30-02	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		Cash and Investments	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved	Unrestricted	Restricted ²
640	SEWER OPERATIONS	\$17,312,471	\$4,815,298	83%	\$5,418,116	78%	(\$602,818)	\$12,991,769	\$3,717,884	\$4,656,572	\$1,862,686
641	SEWER IMPACT FUND	\$7,244,335	\$829,076	64%	\$1,912,635	42%	(\$1,083,559)	1,571,987	\$4,588,789		\$4,797,730
642	SEWER RATE STABILIZATION	\$3,469,485	\$308,725	250%	\$2,007	92%	\$306,718		\$3,776,203	\$3,776,203	
643	SEWER-CAPITAL PROJECTS	\$9,417,751	\$465,028	76%	\$1,053,424	33%	(\$588,396)	5,858,093	\$2,971,262	\$3,069,703	
650	WATER OPERATIONS	\$23,155,862	\$5,576,142	86%	\$6,269,417	26%	(\$693,275)	\$20,076,545	\$2,386,042	\$2,542,775	\$391,421
651	WATER IMPACT FUND	\$2,757,348	\$493,941	21%	\$1,173,126	38%	(\$679,185)	2,162,153	(\$83,991)		\$107,857
652	WATER RATE STABILIZATION	\$838,989	\$22,517	69%	\$467	92%	\$22,050		\$861,039	\$861,039	
653	WATER -CAPITAL PROJECT	\$7,869,151	\$1,001,959	83%	\$1,547,284	33%	(\$545,325)	3,967,339	\$3,356,488	\$3,649,452	
TOTAL ENTERPRISE FUNDS		\$72,065,392	\$13,512,686	75%	\$17,376,476	54%	(\$3,863,790)	\$46,627,886	\$21,573,716	\$18,555,744	\$7,159,694
730	DATA PROCESSING	\$429,425	\$349,422	92%	\$349,796	54%	(\$374)	68,350	\$360,701	\$382,973	
740	BUILDING MAINTENANCE	\$155,445	\$767,379	92%	\$434,975	66%	\$332,404	29,644	\$458,205	\$500,049	
745	CIP ADMINISTRATION	\$83,108	\$1,081,645	83%	\$1,081,645	79%		139,263	(\$56,155)	\$113,066	
760	UNEMPLOYMENT INS.	\$77,693		n/a	\$31,385	63%	(\$31,385)		\$46,308	\$46,308	
770	WORKER'S COMP.	\$42,756	\$415,153	104%	\$528,947	98%	(\$113,794)	\$39,000	(\$110,038)	\$602,124	\$30,000
790	EQUIPMENT REPLACEMENT	\$3,279,710	\$496,371	97%	\$18,898	10%	\$477,473	958,250	\$2,798,933	\$2,873,842	
793	CORPORATION YARD	\$412,656	\$1,048,984	450%	\$794,312	235%	\$254,672	301,928	\$365,400	\$351,996	
795	GEN'L LIABILITY INS.	\$833,756	\$327,209	84%	\$420,211	127%	(\$93,002)		\$740,754	\$1,089,126	
TOTAL INTERNAL SERVICE FUNDS		\$5,314,549	\$4,486,163	111%	\$3,660,169	89%	\$825,994		\$4,604,108	\$5,959,484	\$30,000
820	SPECIAL DEPOSITS									\$777,066	
841	M.H. BUS.RANCH A.D.	\$1,620,366	\$270,418	200%	\$728,262	100%	(\$457,844)		\$1,162,522	\$584,196	\$578,326
842	M.H. BUS. RANCH II A.D.	\$270,163	\$18,455	19%	\$212,261	99%	(\$193,806)		\$76,357	\$16,844	\$59,513
843	M.H. BUS. RANCH 1998	\$1,685,884	\$466,530	40%	\$1,104,677	100%	(\$638,147)		\$1,047,737	\$162,388	\$885,349
845	MADRONE BP-TAX EXEMPT	\$1,696,402	\$387,782		\$1,175,855	106%	(\$788,073)		\$908,329	\$109,679	\$798,650
846	MADRONE BP-TAXABLE	\$246,281	\$122,529	51%	\$202,372	73%	(\$79,843)		\$166,437	\$12,585	\$154,198
848	TENNANT AVE.BUS.PK A.D.	\$319,288	\$39,234	40%	\$836		\$38,398		\$357,686	\$357,686	
881	POLICE DONATION TRUST FUND	\$20,240	\$543	40%			\$543		\$20,783		\$20,783
TOTAL AGENCY FUNDS		\$5,858,624	\$1,305,491	51%	\$3,424,263	100%	(\$2,118,772)		\$3,739,851	\$2,020,444	\$2,496,819
SUMMARY BY FUND TYPE											
GENERAL FUND GROUP		\$11,232,426	\$13,853,155	85%	\$14,269,103	84%	(\$415,948)	\$146,184	\$10,670,294	\$11,124,435	\$4,150
SPECIAL REVENUE GROUP		\$7,473,801	\$5,075,465	97%	\$5,687,045	57%	(\$611,580)	\$1,718,631	\$5,143,590	\$6,414,652	\$10,794
DEBT SERVICE GROUP		\$739,792	\$144,880	66%	\$520,191	106%	(\$375,311)		\$364,481	\$166,280	\$198,200
CAPITAL PROJECTS GROUP		\$65,155,979	\$20,976,714	102%	\$21,178,556	42%	(\$201,842)	\$23,521,484	\$41,432,652	\$32,117,609	\$13,587,706
ENTERPRISE GROUP		\$72,065,392	\$13,512,686	75%	\$17,376,476	54%	(\$3,863,790)	\$46,627,886	\$21,573,716	\$18,555,744	\$7,159,694
INTERNAL SERVICE GROUP		\$5,314,549	\$4,486,163	111%	\$3,660,169	89%	\$825,994		\$4,604,108	\$5,959,484	\$30,000
AGENCY GROUP		\$5,858,624	\$1,305,491	51%	\$3,424,263	100%	(\$2,118,772)		\$3,739,851	\$2,020,444	\$2,496,819
TOTAL ALL GROUPS		\$167,840,563	\$59,354,554	89%	\$66,115,803	56%	(\$6,761,249)	\$72,014,185	\$87,528,692	\$76,358,648	\$23,487,363
TOTAL CASH AND INVESTMENTS										\$99,846,011	

For Enterprise Funds - Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

¹ Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

² Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT
FOR THE MONTH OF MAY 2003
FOR THE FISCAL YEAR OF 2002-03

	Invested in Fund	Yield	Book Value End of Month	Investment Category Subtotal at Cost	% of Total	Market Value
<u>Investments</u>						
State Treasurer LAIF - City	All Funds Pooled	1.86%	\$40,480,870		40.54%	\$40,619,527 **
- RDA	RDA	1.86%	\$22,182,413		22.22%	\$22,258,394 **
- Corp Yard	Corp Yard	1.86%	\$51,372		0.05%	\$51,548 **
Federal Issues	All Funds Pooled	3.88%	\$29,494,148		29.54%	\$29,766,025
Money Market	All Funds Pooled	1.08%	\$2,192,341	\$94,401,144	2.20%	\$2,192,341
<u>Bond Reserve Accounts - held by trustees</u>						
BNY - 2002 SCRWA Bonds						
MBIA Repurchase & Custody Agmt	Sewer	4.78%	\$1,849,400			
Blackrock Provident Temp Fund		0.89%	\$13,285		1.87%	\$1,862,685 *
US Bank - 1999 Water C.O.P.						
First American Treasury Obligation	Water	1.29%	\$391,422		0.39%	\$391,422 *
US Bank - MH Ranch 98	MH Ranch					
First American Treasury Obligation	Agency Fund	1.29%	\$885,349		0.89%	\$885,349 *
US Bank - Madrone Bus Park Tax Exempt	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	1.29%	\$798,650		0.80%	\$798,650 *
US Bank - Madrone Bus Park Taxable	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	1.29%	\$154,197	\$4,092,303	0.15%	\$154,197 *
<u>Checking Accounts</u>						
General Checking	All Funds		\$1,318,414		1.32%	\$1,318,414
Dreyfuss Treas Cash Management Account	All Funds				0.00%	\$0
Athens Administrators Workers' Comp	Workers' Comp		\$30,000		0.03%	\$30,000
Petty Cash & Emergency Cash	Various Funds		\$4,150	\$1,352,564	0.00%	\$4,150
Total Cash and Investments			<u>\$99,846,011</u>	<u>\$99,846,011</u>	<u>100.00%</u>	<u>\$100,332,702</u>

CASH ACTIVITY SUMMARY
FY 02/03

Fund Type	07/01/02 Balance	Change in Cash Balance	05/31/03 Balance	Restricted	Unrestricted
General Fund	\$11,396,207	(\$267,622)	\$11,128,585	\$4,150	\$11,124,435
Community Development	\$2,011,445	(\$322,159)	\$1,689,286	\$0	\$1,689,286
RDA (except Housing)	\$22,128,854	(\$4,514,576)	\$17,614,278	\$0	\$17,614,278
Housing / CDBG	\$4,167,760	\$1,618,718	\$5,786,478	\$0	\$5,786,478
Water - Operations	\$3,198,853	(\$264,657)	\$2,934,196	\$391,421	\$2,542,775
Water Other	\$6,342,342	(\$1,723,994)	\$4,618,348	\$107,857	\$4,510,491
Sewer - Operations	\$7,057,299	(\$538,041)	\$6,519,258	\$1,862,686	\$4,656,572
Sewer Other	\$13,270,287	(\$1,626,651)	\$11,643,636	\$4,797,730	\$6,845,906
Other Special Revenue	\$3,379,537	(\$341,238)	\$3,038,299	\$0	\$3,038,299
Streets and Capital Projects (except RDA)	\$23,005,915	\$996,505	\$24,002,420	\$13,598,500	\$10,403,920
Assessment Districts	\$736,561	(\$372,081)	\$364,480	\$198,200	\$166,280
Internal Service	\$5,284,536	\$704,948	\$5,989,484	\$30,000	\$5,959,484
Agency Funds	<u>\$6,427,696</u>	<u>(\$1,910,433)</u>	<u>\$4,517,263</u>	<u>\$2,496,819</u>	<u>\$2,020,444</u>
Total	<u>\$108,407,292</u>	<u>(\$8,561,281)</u>	<u>\$99,846,011</u>	<u>\$23,487,363</u>	<u>\$76,358,648</u>

Note: See Investment Portfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports.

*Market Value as of 03/31/03

**Market Value as of 04/30/03

I certify the information on the investment reports on pages 6-8 has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by: _____
 Lourdes Reroma
 Accountant I

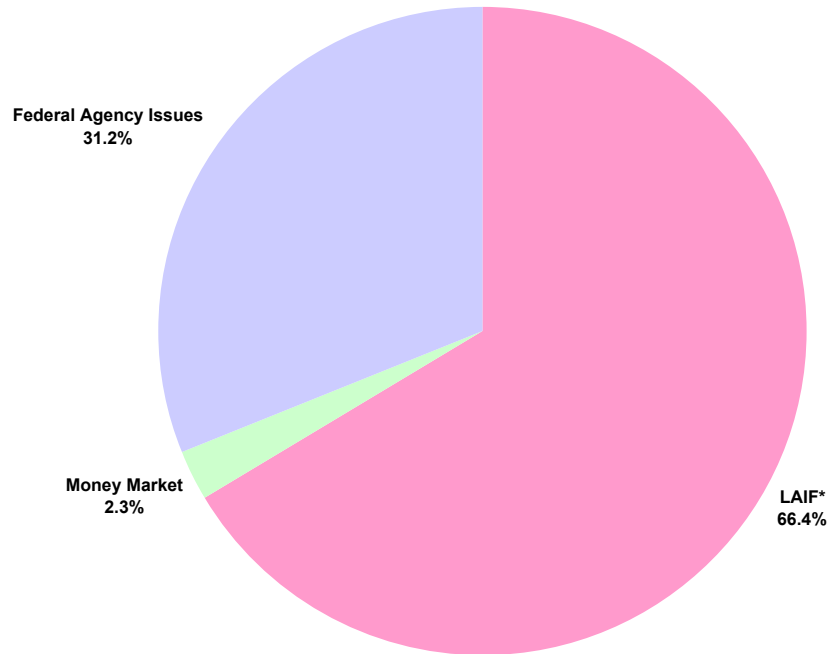
Approved by: _____
 Jack Dilles
 Director of Finance

Verified by: _____
 Tina Reza
 Assistant Director of Finance

 Mike Roorda
 City Treasurer



CITY OF MORGAN HILL INVESTMENT PORTFOLIO DETAIL as of 05/31/03



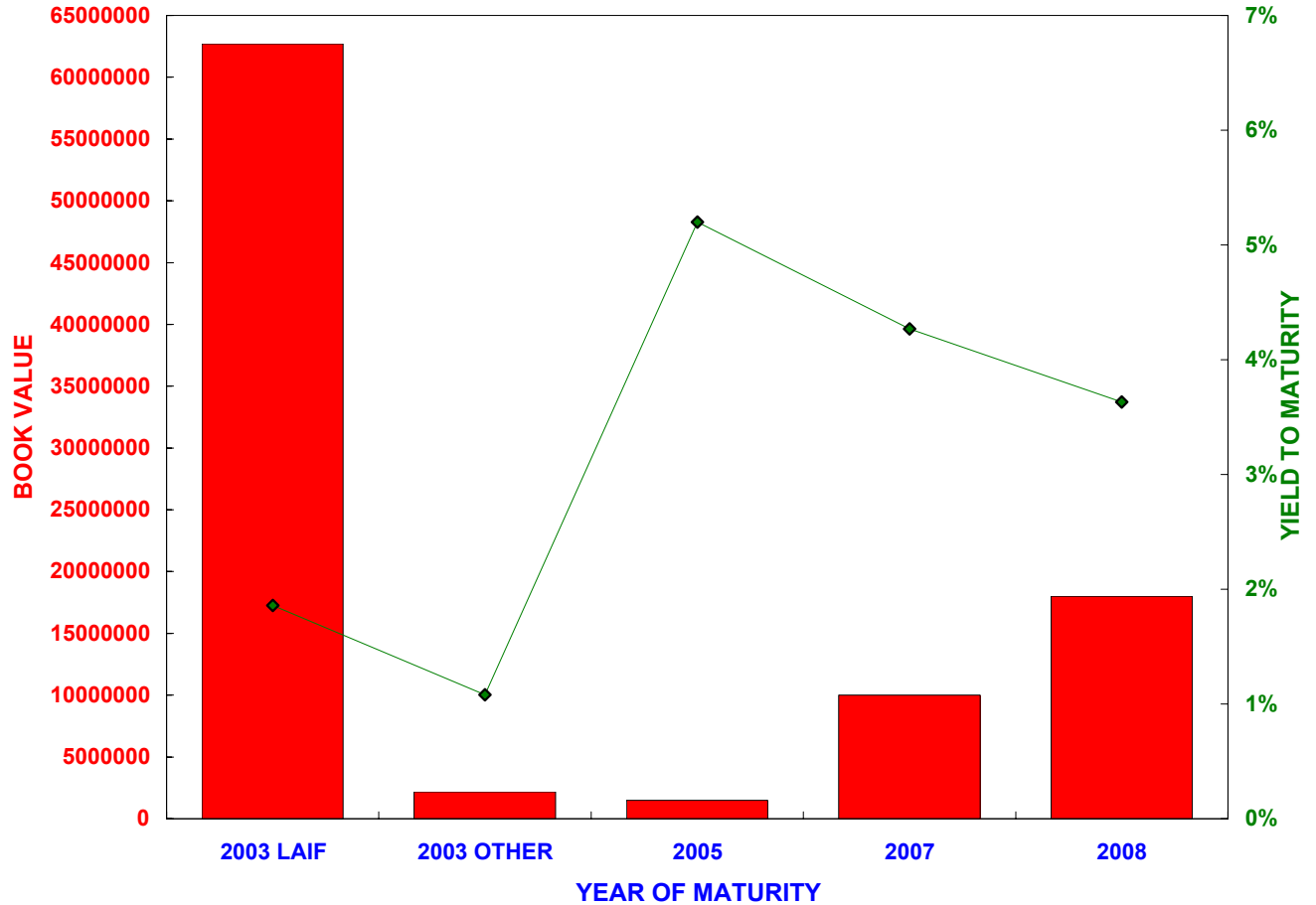
Investment Type	Purchase Date	Book Value	% of Portfolio	Market Value	Stated Rate	Interest Earned	Next Call Date	Date of Maturity	Years to Maturity
LAIF*									
		\$62,714,655	66.43%	\$62,929,469	1.858%	\$1,093,877			0.003
Federal Agency Issues									
Fed Natl Mortgage Assn	08/01/01	\$1,500,000	1.59%	\$1,510,785	5.200%	\$71,536	08/01/05	08/01/05	2.170
Fed Farm Credit Bank	03/18/03	\$2,000,000	2.12%	\$2,001,880	3.350%	\$13,655	06/18/03	06/18/07	4.049
Fed Home Loan Bank	07/09/02	\$4,000,000	4.24%	\$4,012,520	4.875%	\$174,530	07/09/03	07/09/07	4.107
Fed Home Loan Bank	08/20/02	\$2,000,000	2.12%	\$2,011,260	4.250%	\$66,215	08/20/03	08/20/07	4.222
Fed Natl Mortgage Assn	09/27/02	\$2,000,000	2.12%	\$2,015,620	4.000%	\$54,348	09/27/03	09/27/07	4.326
Fed Home Loan Bank	02/04/03	\$2,000,000	2.12%	\$2,008,120	3.900%	\$25,210	08/04/03	02/04/08	4.682
Fed Home Loan Bank	03/11/03	\$2,000,000	2.12%	\$2,032,500	3.500%	\$15,598	03/11/04	03/11/08	4.781
Fed Home Loan Mgt Corp	03/12/03	\$2,000,000	2.12%	\$2,032,420	3.500%	\$15,408	03/12/04	03/12/08	4.784
Fed Home Loan Bank	03/26/03	\$2,000,000	2.12%	\$2,031,260	3.375%	\$12,289	03/26/04	03/26/08	4.822
Fed Home Loan Mgt Corp	04/08/03	\$2,000,000	2.12%	\$2,039,240	3.700%	\$10,918	04/08/04	04/08/08	4.858
Fed Home Loan Bank	04/14/03	\$2,000,000	2.12%	\$2,005,620	3.813%	\$10,001	07/14/03	04/14/08	4.874
Fed Home Loan Mgt Corp	04/16/03	\$2,000,000	2.12%	\$2,038,540	3.600%	\$9,049	04/16/04	04/16/08	4.879
Fed Home Loan Mgt Corp	04/17/03	\$1,994,148	2.11%	\$2,016,880	3.691%	\$9,224	10/17/03	04/17/08	4.882
Fed Farm Credit Bank	05/14/03	\$2,000,000	2.12%	\$2,009,380	3.617%	\$3,538	08/14/03	05/14/08	4.956
Redeemed FY 02/03						\$995,691			
Sub Total/Average		\$29,494,148	31.24%	\$29,766,025	3.879%	\$1,487,210			4.471
Money Market									
		\$2,192,341	2.32%	\$2,192,341	1.080%	\$30,194			0.003
TOTAL/AVERAGE		\$94,401,144	100.00%	\$94,887,835	2.487%	\$2,611,281			1.433

*Per State Treasurer Report dated 04/30/2003, LAIF had invested approximately 11% of its balance in Treasury Bills and Notes, 19% in CDs, 26% in Commercial Paper and Corporate Bonds, 0% in Banker's Acceptances and 44% in others.



CITY OF MORGAN HILL

INVESTMENT MATURITIES AS OF MAY 31, 2003



YEAR OF MATURITY	BOOK VALUE	MARKET VALUE	AVERAGE RATE	% OF TOTAL
2003 LAIF	\$62,714,654	\$62,929,469	1.858%	66.43%
2003 OTHER	\$2,192,341	\$2,192,341	1.080%	2.32%
2005	\$1,500,000	\$1,510,785	5.200%	1.59%
2007	\$10,000,000	\$10,041,280	4.270%	10.59%
2008	\$17,994,148	\$18,213,960	3.633%	19.06%
TOTAL	\$94,401,144	\$94,887,835	2.487%	100.00%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
010 GENERAL FUND							
<u>TAXES</u>							
Property Taxes - Secured/Unsecured/Prio	1,883,000	1,883,000	1,964,728	104%	1,824,914	139,814	8%
Supplemental Roll	125,000	125,000	153,585	123%	156,649	(3,064)	-2%
Sales Tax	5,330,000	5,330,000	4,159,303	78%	4,661,879	(502,576)	-11%
Public Safety Sales Tax	288,400	288,400	219,440	76%	238,364	(18,924)	-8%
Transient Occupancy Taxes	892,000	892,000	670,866	75%	699,429	(28,563)	-4%
Franchise (Refuse ,Cable ,PG&E)	965,000	965,000	837,592	87%	810,890	26,702	3%
Property Transfer Tax	220,000	220,000	228,713	104%	209,836	18,877	9%
TOTAL TAXES	9,703,400	9,703,400	8,234,227	85%	8,601,961	(367,734)	-4%
<u>LICENSES/PERMITS</u>							
Business License	164,000	164,000	148,913	91%	156,844	(7,931)	-5%
Other Permits	45,450	45,450	40,512	89%	41,695	(1,183)	-3%
TOTAL LICENSES/PERMITS	209,450	209,450	189,425	90%	198,539	(9,114)	-5%
<u>FINES AND PENALTIES</u>							
Parking Enforcement	15,000	15,000	8,200	55%	11,442	(3,242)	-28%
City Code Enforcement	82,000	82,000	49,735	61%	70,357	(20,622)	-29%
Business tax late fee/other fines	-	2,500	1,741	n/a	2,525	(784)	-31%
TOTAL FINES AND PENALTIES	97,000	99,500	59,676	60%	84,324	(24,648)	-29%
<u>OTHER AGENCIES</u>							
Motor Vehicle in-Lieu	1,965,000	1,965,000	1,874,335	95%	1,718,810	155,525	9%
Other Revenue - Other Agencies	228,300	228,300	101,655	45%	222,578	(120,923)	-54%
TOTAL OTHER AGENCIES	2,193,300	2,193,300	1,975,990	90%	1,941,388	34,602	2%
<u>CHARGES CURRENT SERVICES</u>							
False Alarm Charge	24,000	24,000	25,430	106%	23,292	2,138	9%
Business License Application Review	18,000	18,000	23,214	129%	20,784	2,430	12%
Recreation Classes	231,741	231,741	93,006	40%	33,203	59,803	180%
General Administration Overhead	1,855,937	1,855,937	1,701,273	92%	1,444,194	257,079	18%
Other Charges Current Services	184,898	182,398	192,286	105%	220,815	(28,529)	-13%
TOTAL CURRENT SERVICES	2,314,576	2,312,076	2,035,209	88%	1,742,288	292,921	17%
<u>OTHER REVENUE</u>							
Use of money/property	724,400	739,400	473,287	64%	366,451	106,836	29%
Other revenues	78,950	78,950	53,787	68%	81,213	(27,426)	-34%
TOTAL OTHER REVENUE	803,350	818,350	527,074	64%	447,664	79,410	18%
<u>TRANSFERS IN</u>							
Park Maintenance	100,000	100,000	75,000	75%	75,000	-	n/a
Sewer Enterprise	17,500	17,500	16,042	92%	13,750	2,292	17%
Water Enterprise	17,500	17,500	16,042	92%	13,750	2,292	17%
Public Safety	270,000	270,000	247,500	92%	159,422	88,078	55%
Community Cultural Center	520,332	520,332	476,970	92%	-	476,970	n/a
Other Funds	-	-	-	n/a	233,069	(233,069)	-100%
TOTAL TRANSFERS IN	925,332	925,332	831,554	90%	494,991	336,563	68%
TOTAL GENERAL FUND	16,246,408	16,261,408	13,853,155	85%	13,511,155	342,000	3%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE							
Gas Tax 2105 - 2107.5	658,000	658,000	607,837	92%	690,681	(82,844)	-12%
Measure A & B	-	-	-	n/a	-	-	n/a
Tea 21	-	-	-	n/a	-	-	n/a
Transfers In	977,000	977,000	832,750	85%	670,000	162,750	24%
Project Reimbursement	117,000	117,000	70,402	60%	-	70,402	n/a
Interest / Other Revenue/Other Charges	55,500	55,500	147,953	267%	124,261	23,692	19%
202 STREET MAINTENANCE	1,807,500	1,807,500	1,658,942	92%	1,484,942	174,000	12%
204/205 PUBLIC SAFETY TRUST							
Interest Income	30,400	30,400	17,230	57%	22,316	(5,086)	-23%
Police Grant/SLEF	100,000	100,000	100,000	100%	100,000	-	n/a
PD Block Grant	-	-	-	n/a	10,070	(10,070)	-100%
CA Law Enforcement Equip. Grant	-	-	20,765	n/a	40,663	(19,898)	-49%
Federal Police Grant (COPS)	30,000	30,000	17,874	60%	41,226	(23,352)	-57%
Transfers In	-	-	-	n/a	-	-	n/a
204/205 PUBLIC SAFETY TRUST	160,400	160,400	155,869	97%	214,275	(58,406)	-27%
206 COMMUNITY DEVELOPMENT							
Building Fees	1,134,000	1,134,000	1,315,940	116%	879,249	436,691	50%
Planning Fees	438,147	438,147	532,305	121%	249,350	282,955	113%
Engineering Fees	480,000	480,000	603,811	126%	414,263	189,548	46%
Other Revenue/Current Charges	66,276	66,276	48,027	72%	121,861	(73,834)	-61%
Transfers	-	-	-	n/a	146,798	(146,798)	-100%
206 COMMUNITY DEVELOPMENT	2,118,423	2,118,423	2,500,083	118%	1,811,521	688,562	38%
207 GENERAL PLAN UPDATE	113,582	113,582	112,866	99%	31,161	81,705	262%
215 and 216 HCD BLOCK GRANT							
HCD allocation	181,306	181,306	-	n/a	73,716	(73,716)	-100%
Interest Income/Other Revenue	50,000	50,000	18,381	37%	4,390	13,991	319%
Transfers	-	-	-	n/a	-	-	n/a
215 and 216 HCD BLOCK GRANT	231,306	231,306	18,381	8%	78,106	(59,725)	-76%
210 COMMUNITY CENTER	119,041	119,041	122,594	103%	219,015	(96,421)	-44%
220 MUSEUM RENTAL	212	212	74	35%	122	(48)	-39%
225 ASSET SEIZURE	2,057	2,057	1,246	61%	25,863	(24,617)	-95%
226 OES/FEMA	-	-	-	n/a	8,750	(8,750)	-100%
229 LIGHTING AND LANDSCAPE	107,429	107,429	68,646	64%	58,410	10,236	18%
232 ENVIRONMENTAL PROGRAMS	380,755	380,755	320,921	84%	296,769	24,152	8%
234 MOBILE HOME PARK RENT STAB.	2,507	2,507	17,826	711%	56,670	(38,844)	-69%
235 SENIOR HOUSING	85,541	85,541	17,592	21%	22,547	(4,955)	-22%
236 HOUSING MITIGATION	37,500	37,500	27,519	73%	944,619	(917,100)	-97%
240 EMPLOYEE ASSISTANCE	80,786	80,786	52,906	65%	-	52,906	n/a
TOTAL SPECIAL REVENUE FUNDS	5,247,039	5,247,039	5,075,465	97%	5,252,770	(177,305)	-3%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
CAPITAL PROJECTS FUNDS							
301 PARK DEVELOPMENT	1,129,006	1,129,006	439,447	39%	292,507	146,940	50%
302 PARK MAINTENANCE	155,300	155,300	299,453	193%	94,136	205,317	218%
303 LOCAL DRAINAGE	315,223	315,223	343,945	109%	245,827	98,118	40%
304 LOCAL DRAINAGE/NON AB1600	139,949	139,949	265,512	190%	121,793	143,719	118%
305 OFF-STREET PARKING	152	152	104	68%	92	12	13%
306 OPEN SPACE			118,670	n/a	193,000	(74,330)	-39%
309 TRAFFIC MITIGATION	1,080,268	1,080,268	720,618	67%	1,324,606	(603,988)	-46%
311 POLICE MITIGATION	64,919	64,919	77,126	119%	49,169	27,957	57%
313 FIRE MITIGATION	166,935	166,935	203,701	122%	136,084	67,617	50%
317 RDA CAPITAL PROJECTS							
Property Taxes & Supplemental Roll	12,084,000	12,084,000	13,470,732	111%	11,176,310	2,294,422	21%
Development Agreements	-	-	-	n/a	-	-	n/a
Interest Income, Rents	595,853	595,853	274,569	46%	691,830	(417,261)	-60%
Other Agencies/Current Charges	152,500	152,500	107,758	71%	720,984	(613,226)	-85%
317 RDA CAPITAL PROJECTS	12,832,353	12,832,353	13,853,059	108%	12,589,124	1,263,935	10%
327/328 RDA L/M HOUSING							
Property Taxes & Supplemental Roll	3,438,000	3,438,000	3,703,856	108%	3,076,218	627,638	20%
Interest Income, Rent	100,000	100,000	345,889	346%	165,893	179,996	109%
Other	590	590	1,000	169%	750	250	33%
327/328 RDA L/M HOUSING	3,538,590	3,538,590	4,050,745	114%	3,242,861	807,884	25%
346 PUBLIC FACILITIES NON-AB1600	254,300	254,300	282,050	111%	213,505	68,545	32%
347 PUBLIC FACILITIES	148,617	148,617	80,146	54%	79,550	596	1%
348 LIBRARY	36,299	36,299	39,919	110%	28,840	11,079	38%
350 UNDERGROUNDING	692,745	692,745	199,559	29%	309,067	(109,508)	-35%
340 MORGAN HILL BUS.RANCH CIP I	1,825	1,825	1,253	69%	1,150	103	9%
342 MORGAN HILL BUS.RANCH CIP II	2,052	2,052	1,407	69%	1,236	171	14%
TOTAL CAPITAL PROJECTS FUNDS	20,558,533	20,558,533	20,976,714	102%	18,922,547	2,054,167	11%

DEBT SERVICE FUNDS

527 HIDDEN CREEK	-	-	-	n/a	-	-	n/a
533 DUNNE AVE. / CONDIR ROAD	-	-	-	n/a	-	-	n/a
536 ENCINO HILLS	4,209	4,209	1,755	42%	1,402	353	25%
539 MORGAN HILL BUSINESS PARK	7,707	7,707	297	4%		297	n/a
542 SUTTER BUSINESS PARK	6,215	6,215	646	10%		646	n/a
545 COCHRANE BUSINESS PARK	158,673	158,673	125,042	79%	153,225	(28,183)	-18%
551 JOLEEN WAY	43,068	43,068	17,140	40%	18,553	(1,413)	-8%
TOTAL DEBT SERVICE FUNDS	219,872	219,872	144,880	66%	173,180	(28,300)	-16%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
ENTERPRISE FUNDS							
640 SEWER OPERATION							
Sewer Service Fees	5,389,650	5,389,650	4,571,787	85%	4,906,702	(334,915)	-7%
Interest Income	295,119	295,119	121,935	41%	187,945	(66,010)	-35%
Sewer Rate Stabilization	-	-	-	n/a	-	-	n/a
Other Revenue/Current Charges	<u>113,900</u>	<u>113,900</u>	<u>121,576</u>	<u>107%</u>	<u>102,981</u>	<u>18,595</u>	<u>18%</u>
640 SEWER OPERATION	5,798,669	5,798,669	4,815,298	83%	5,197,628	(382,330)	-7%
641 SEWER EXPANSION							
Interest Income	176,887	176,887	146,045	83%	142,635	3,410	2%
Connection Fees	1,125,000	1,125,000	682,305	61%	1,449,558	(767,253)	-53%
Other	<u>-</u>	<u>-</u>	<u>726</u>	<u>n/a</u>	<u>725</u>	<u>1</u>	<u>0%</u>
641 SEWER EXPANSION	1,301,887	1,301,887	829,076	64%	1,592,918	(763,842)	-48%
642 SEWER RATE STABILIZATION	123,378	123,378	308,725	250%	387,838	(79,113)	-20%
643 SEWER-CAPITAL PROJECT	608,429	608,429	465,028	76%	459,890	5,138	1%
TOTAL SEWER FUNDS	7,832,363	7,832,363	6,418,127	82%	7,638,274	(1,220,147)	-16%
650 WATER OPERATION							
Water Sales	5,855,915	5,855,915	4,944,330	84%	5,177,119	(232,789)	-4%
Meter Install & Service	48,000	48,000	49,366	103%	28,599	20,767	73%
Transfers-In, and Interest Income	384,673	384,673	267,199	69%	321,998	(54,799)	-17%
Other Revenue/Current Charges	<u>171,770</u>	<u>171,770</u>	<u>315,247</u>	<u>184%</u>	<u>231,309</u>	<u>83,938</u>	<u>36%</u>
650 WATER OPERATION	6,460,358	6,460,358	5,576,142	86%	5,759,025	(182,883)	-3%
651 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	480,602	1,980,602	362,487	18%	27,569	334,918	1215%
Water Connection Fees	<u>387,000</u>	<u>387,000</u>	<u>131,454</u>	<u>34%</u>	<u>166,482</u>	<u>(35,028)</u>	<u>-21%</u>
651 WATER EXPANSION	867,602	2,367,602	493,941	21%	194,051	299,890	155%
652 Water Rate Stabilization	32,844	32,844	22,517	69%	19,638	2,879	15%
653 Water Capital Project	1,207,662	1,207,662	1,001,959	83%	960,659	41,300	4%
TOTAL WATER FUNDS	8,568,466	10,068,466	7,094,559	70%	6,933,373	161,186	2%
TOTAL ENTERPRISE FUNDS	16,400,829	17,900,829	13,512,686	75%	14,571,647	(1,058,961)	-7%
INTERNAL SERVICE FUNDS							
730 INFORMATION SERVICES	381,190	381,190	349,422	92%	560,058	(210,636)	-38%
740 BUILDING MAINTENANCE SERVICES	837,139	837,139	767,379	92%	694,335	73,044	11%
745 CIP ADMINISTRATION	1,308,226	1,308,226	1,081,645	83%	927,857	153,788	17%
760 UNEMPLOYMENT INSURANCE	970	970	-	n/a	-	-	n/a
770 WORKERS COMPENSATION	399,907	399,907	415,153	104%	389,950	25,203	6%
790 EQUIPMENT REPLACEMENT	511,371	511,371	496,371	97%	439,375	56,996	13%
793 CORPORATION YARD COMMISSION	233,033	233,033	1,048,984	450%	508,639	540,345	106%
795 GENERAL LIABILITY INSURANCE	387,806	387,806	327,209	84%	368,663	(41,454)	-11%
TOTAL INTERNAL SERVICE FUNDS	4,059,642	4,059,642	4,486,163	111%	3,888,877	597,286	15%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
AGENCY FUNDS							
841 M.H. BUS.RANCH A.D. I	135,458	135,458	270,418	200%	388,946	(118,528)	-30%
842 M.H. BUS.RANCH A.D. II	99,679	99,679	18,455	19%	48,612	(30,157)	-62%
843 M.H. BUS.RANCH 1998	939,155	939,155	466,530	50%	473,660	(7,130)	-2%
845 MADRONE BP-TAX EXEMPT	846,721	846,721	387,782	46%	498,624	(110,842)	-22%
846 MADRONE BP-TAXABLE	184,234	184,234	122,529	67%	82,464	40,065	49%
848 TENNANT AVE.BUS.PK A.D.	332,553	332,553	39,234	12%	271,273	(232,039)	-86%
881 POLICE DONATION TRUST FUND	1,371	1,371	543	40%	552	(9)	-2%
TOTAL AGENCY FUNDS	2,539,171	2,539,171	1,305,491	51%	1,764,131	(458,640)	-26%
TOTAL FOR ALL FUNDS	65,271,494	66,786,494	59,354,554	89%	58,084,307	2,028,220	3%



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
010 GENERAL FUND								
I. GENERAL GOVERNMENT								
COUNCIL AND MISCELLANEOUS GOVT.								
	City Council	21,105	236,417	242,371	168,398	361	168,759	70%
	Community Promotions	<u>1,636</u>	<u>40,604</u>	<u>47,303</u>	<u>31,178</u>	<u>6,707</u>	<u>37,885</u>	<u>80%</u>
	COUNCIL AND MISCELLANEOUS GO	22,741	277,021	289,674	199,576	7,068	206,644	71%
	CITY ATTORNEY	56,597	668,556	751,176	731,824	-	731,824	97%
CITY MANAGER								
	City Manager	36,624	393,276	446,628	357,439	-	357,439	80%
	Cable Television	4,596	46,755	61,366	58,865	2,477	61,342	100%
	Communications & Marketing	<u>10,648</u>	<u>116,982</u>	<u>116,982</u>	<u>90,668</u>	<u>3,315</u>	<u>93,983</u>	<u>80%</u>
	CITY MANAGER	51,868	557,013	624,976	506,972	5,792	512,764	82%
RECREATION								
	Recreation	55,605	479,220	486,520	415,151	42,127	457,278	94%
	Community & Cultural Center	219,074	684,196	710,546	474,787	20,690	495,477	70%
	Building Maintenance (CCC)	<u>40,883</u>	<u>205,115</u>	<u>220,115</u>	<u>167,968</u>	<u>5,362</u>	<u>173,330</u>	<u>79%</u>
	RECREATION	315,562	1,368,531	1,417,181	1,057,906	68,179	1,126,085	79%
HUMAN RESOURCES								
	Human Resources	54,539	606,543	607,257	503,097	2,819	505,916	83%
	Volunteer Programs	<u>2,946</u>	<u>38,193</u>	<u>38,193</u>	<u>24,800</u>	<u>-</u>	<u>24,800</u>	<u>65%</u>
	HUMAN RESOURCES	57,485	644,736	645,450	527,897	2,819	530,716	82%
CITY CLERK								
	City Clerk	23,436	373,823	404,150	226,695	861	227,556	56%
	Elections	<u>3,375</u>	<u>65,811</u>	<u>65,811</u>	<u>45,812</u>	<u>-</u>	<u>45,812</u>	<u>70%</u>
	CITY CLERK	26,811	439,634	469,961	272,507	861	273,368	58%
	FINANCE	89,537	1,075,090	1,094,207	821,513	299	821,812	75%
	MEDICAL SERVICES	-	120,000	120,000	50,000	-	50,000	42%
	TOTAL GENERAL GOVERNMENT	620,601	5,150,581	5,412,625	4,168,195	85,018	4,253,213	79%
II. PUBLIC SAFETY								
POLICE								
	PD Administration	47,805	596,573	596,573	404,155		404,155	68%
	Patrol	347,576	3,131,616	3,138,478	2,838,552	1,491	2,840,043	90%
	Support Services	82,117	867,088	868,069	819,366	2,523	821,889	95%
	Emergency Services/Haz Mat	2,794	89,549	89,549	48,289	-	48,289	54%
	Special Operations	86,165	792,804	792,804	778,296	3,575	781,871	99%
	Animal Control	7,955	71,919	71,919	64,768	30,524	95,292	132%
	Dispatch Services	<u>81,711</u>	<u>821,421</u>	<u>885,913</u>	<u>650,541</u>	<u>1,100</u>	<u>651,641</u>	<u>74%</u>
	POLICE	656,123	6,370,970	6,443,305	5,603,967	39,213	5,643,180	88%
	FIRE	301,995	3,623,938	3,623,938	3,321,943	-	3,321,943	92%
	TOTAL PUBLIC SAFETY	958,118	9,994,908	10,067,243	8,925,910	39,213	8,965,123	89%
III. COMMUNITY IMPROVEMENT								
	PARK MAINTENANCE	67,946	826,483	879,230	737,248	21,953	759,201	86%
	TOTAL COMMUNITY IMPROVEMENT	67,946	826,483	879,230	737,248	21,953	759,201	86%



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
IV. TRANSFERS								
	Street Maintenance		377,000	377,000	282,750	-	282,750	75%
	Community Center		100,000	100,000	100,000	-	100,000	100%
	General Plan Update	5,000	60,000	60,000	55,000	-	55,000	92%
TOTAL TRANSFERS		5,000	537,000	537,000	437,750	-	437,750	82%
TOTAL GENERAL FUND		1,651,665	16,508,972	16,896,098	14,269,103	146,184	14,415,287	85%
SPECIAL REVENUE FUNDS								
202 STREET MAINTENANCE								
	Street Maintenance/Traffic	161,937	1,705,475	1,835,629	1,288,202	108,476	1,396,678	76%
	Congestion Management	15,375	79,820	79,820	61,914	-	61,914	78%
	Street CIP	<u>27,594</u>	<u>120,097</u>	<u>1,398,774</u>	<u>269,983</u>	<u>696,257</u>	<u>966,240</u>	<u>69%</u>
202 STREET MAINTENANCE		204,906	1,905,392	3,314,223	1,620,099	804,733	2,424,832	73%
204/205	PUBLIC SAFETY/SUPP.LAW	22,545	315,538	315,538	292,993		292,993	93%
206 COMMUNITY DEVELOPMENT FUND								
	Planning	116,707	1,146,916	1,422,356	1,062,313	209,535	1,271,848	89%
	Building	82,906	1,040,589	1,129,357	796,206	72,791	868,997	77%
	PW-Engineering	<u>112,046</u>	<u>1,120,346</u>	<u>1,160,252</u>	<u>900,909</u>	<u>39,912</u>	<u>940,821</u>	<u>81%</u>
206 COMMUNITY DEVELOPMENT FUND		311,659	3,307,851	3,711,965	2,759,428	322,238	3,081,666	83%
207	GENERAL PLAN UPDATE	5,461	162,996	203,959	15,048	154,699	169,747	83%
210	COMMUNITY CENTER	43,361	520,332	520,332	476,971	-	476,971	92%
215/216	CDBG	15,556	231,306	232,806	30,649	7,207	37,856	16%
220	MUSEUM RENTAL	155	3,069	3,069	2,595	-	2,595	85%
225	ASSET SEIZURE		34,060	34,060	20,000	-	20,000	59%
226	OES/FEMA	-	-	-	-	-	-	n/a
229	LIGHTING AND LANDSCAPE	9,176	138,672	139,639	122,336	10,455	132,791	95%
232	ENVIRONMENT PROGRAMS	17,469	318,170	384,242	238,822	54,445	293,267	76%
234	MOBILE HOME PARK	7,944	70,335	70,335	45,307	-	45,307	64%
236	HOUSING MITIGATION FUND	4,361	1,032,119	1,032,119	16,235	4,265	20,500	2%
240	EMPLOYEE ASSISTANCE	2,691	40,000	40,000	46,562	-	46,562	116%
TOTAL SPECIAL REVENUE FUNDS		645,284	8,079,840	10,002,287	5,687,045	1,358,042	7,045,087	70%
CAPITAL PROJECT FUNDS								
301	PARK DEVELOPMENT	13,237	2,856,587	3,215,379	146,563	37,534	184,097	6%
302	PARK MAINTENANCE		165,000	170,422	103,809	-	103,809	61%
303	LOCAL DRAINAGE	285	1,866,589	2,094,305	10,421	3,500	13,921	1%
304	LOCAL DRAIN. NON-AB1600	144	161,727	396,685	83,304	-	83,304	21%
309	TRAFFIC MITIGATION	109,669	183,541	1,526,406	875,842	332,507	1,208,349	79%
311	POLICE MITIGATION	512	1,058,142	1,058,142	80,572	-	80,572	8%
313	FIRE MITIGATION	119	1,428	151,428	151,965	-	151,965	100%
317	RDA BUSINESS ASSISTANCE	1,483,590	19,353,409	32,464,906	16,945,059	3,397,587	20,342,646	63%
327/328	RDA HOUSING	262,263	6,313,976	7,238,924	2,305,169	24,238	2,329,407	32%
346	PUBLIC FAC.NON AB1600	-	-	-	-	-	-	n/a
347	PUBLIC FACILITIES	19,072	56,412	1,155,026	389,231	868,236	1,257,467	109%
348	LIBRARY IMPACT	17	208	208	846	-	846	407%
350	UNDERGROUNDING	78,546	730,404	730,404	85,775	-	85,775	12%
TOTAL CAPITAL PROJECTS FUNDS		1,967,454	32,747,423	50,202,235	21,178,556	4,663,602	25,842,158	51%



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
DEBT SERVICE FUNDS								
527	HIDDEN CREEK A.D.	-	-	-	-	-	-	n/a
536	ENCINO HILLS A.D.	-	-	-	500	-	500	n/a
539	MORGAN HILL BUS. PARK A.D.	-	-	-	562	-	562	n/a
542	SUTTER BUS. PARK A.D.	-	-	-	-	-	-	n/a
545	COCHRANE BUS. PARK A.D.	581	139,309	448,309	477,145	-	477,145	106%
551	JOLEEN WAY A.D.	581	42,569	42,569	41,984	-	41,984	99%
TOTAL DEBT SERVICE FUNDS		1,162	181,878	490,878	520,191	-	520,191	106%
ENTERPRISE FUNDS								
SEWER								
640	SEWER OPERATION	387,537	6,875,234	6,929,378	5,418,116	53,690	5,471,806	79%
641	CAPITAL EXPANSION	252,417	4,006,874	4,536,874	1,912,635	10,487	1,923,122	42%
642	SEWER RATE STABILIZATION	183	2,190	2,190	2,007	-	2,007	92%
643	SEWER-CAPITAL PROJECTS	<u>42,608</u>	<u>1,822,627</u>	<u>3,156,637</u>	<u>1,053,424</u>	<u>98,441</u>	<u>1,151,865</u>	<u>36%</u>
TOTAL SEWER FUND(S)		682,745	12,706,925	14,625,079	8,386,182	162,618	8,548,800	58%
WATER								
	Water Operations Division	418,566	6,948,657	8,686,693	5,398,869	188,892	5,587,761	64%
	Meter Reading/Repair	47,095	616,878	688,718	500,796	134,922	635,718	92%
	Utility Billing	30,569	347,753	458,755	366,811	39,087	405,898	88%
	Water Conservation	<u>96</u>	<u>11,320</u>	<u>11,320</u>	<u>2,941</u>	<u>-</u>	<u>2,941</u>	<u>26%</u>
650	WATER OPERATIONS	496,326	7,924,608	9,845,486	6,269,417	362,901	6,632,318	67%
651	CAPITAL EXPANSION	111,577	900,234	3,123,047	1,173,126	191,847	1,364,973	44%
652	WATER RATE STABILIZATION	42	509	509	467	-	467	92%
653	WATER-CAPITAL PROJECTS	<u>152,145</u>	<u>810,955</u>	<u>4,622,731</u>	<u>1,547,284</u>	<u>292,965</u>	<u>1,840,249</u>	<u>40%</u>
TOTAL WATER FUND(S)		760,090	9,636,306	17,591,773	8,990,294	847,713	9,838,007	56%
TOTAL ENTERPRISE FUNDS		1,442,835	22,343,231	32,216,852	17,376,476	1,010,331	18,386,807	57%
INTERNAL SERVICE FUNDS								
730	INFORMATION SERVICES	15,897	586,190	653,455	349,796	22,270	372,066	57%
740	BUILDING MAINTENANCE	44,027	588,128	659,440	434,975	26,310	461,285	70%
745	CIP ENGINEERING	109,857	1,308,227	1,374,356	1,081,645	121,372	1,203,017	88%
760	UNEMPLOYMENT	6,695	25,000	50,000	31,385	-	31,385	63%
770	WORKERS COMPENSATION	42,405	482,200	539,025	528,947	39,000	567,947	105%
790	EQUIPMENT REPLACEMENT	136	186,472	186,472	18,898	74,909	93,807	50%
793	CORP YARD COMMISSION	14,755	227,600	337,970	794,312	70,450	864,762	256%
795	GEN. LIABILITY INSURANCE	(6,283)	330,600	330,600	420,211	-	420,211	127%
TOTAL INTERNAL SERVICE FUNDS		227,489	3,734,417	4,131,318	3,660,169	354,311	4,014,480	97%
AGENCY FUNDS								
841	MORGAN HILL BUS RANCH I	581	730,155	730,155	728,262	-	728,262	100%
842	MORGAN HILL BUS RANCH II	581	89,995	213,995	212,261	-	212,261	99%
843	MORGAN HILL BUS RANCH 98	581	883,336	1,105,336	1,104,677	-	1,104,677	100%
845	MADRONE BP-TAX EXEMPT	581	1,084,479	1,105,479	1,175,855	-	1,175,855	106%
846	MADRONE BP-TAXABLE	581	183,851	276,851	202,372	-	202,372	73%
848	TENNANT AVE BUS PARK AD	-	-	-	836	-	836	n/a
881	POLICE DONATION TRUST	-	-	-	-	-	-	n/a
TOTAL AGENCY FUNDS		2,905	2,971,816	3,431,816	3,424,263	-	3,424,263	100%
REPORT TOTAL		5,938,794	86,567,577	117,371,484	66,115,803	7,532,470	73,648,273	63%



YTD INCOME STATEMENT FOR CURRENT AND PRIOR YEAR

	Sewer Operations				Water Operations			
	Budget	YTD	% of Budget	Prior YTD	Budget	YTD	% of Budget	Prior YTD
Operations								
Revenues								
Service Charges	\$ 5,389,650	\$ 4,571,787	85%	\$ 4,906,702	\$ 5,855,915	\$ 4,944,330	84%	\$ 5,177,119
Meter Install & Service					48,000	49,366	103%	28,599
Other	113,900	121,576	107%	102,981	155,566	315,247	203%	244,377
Total Operating Revenues	5,503,550	4,693,363	85%	5,009,683	6,059,481	5,308,943	88%	5,450,095
Expenses								
Operations	3,979,047	3,382,209	85%	3,278,996	4,523,153	3,577,741	79%	3,034,978
Meter Reading/Repair					688,718	500,796	73%	391,578
Utility Billing/Water Conservation					470,075	369,752	79%	272,853
Total Operating Expenses	3,979,047	3,382,209	85%	3,278,996	5,681,946	4,448,289	78%	3,699,409
Operating Income (Loss)	1,524,503	1,311,154		1,730,687	377,535	860,654		1,750,686
Nonoperating revenue (expense)								
Interest Income	295,119	121,935	41%	187,945	227,000	107,812	47%	148,016
Interest Expense/Debt Services	(1,403,954)	(667,145)	48%	(963,134)	(337,720)	(164,273)	49%	(337,720)
Principal Expense/Debt Services	(655,000)	(635,000)	97%	(655,000)	(210,320)	(29,147)	14%	(210,320)
Total Nonoperating revenue (expense)	(1,763,835)	(1,180,210)		(1,430,189)	(321,040)	(85,608)		(400,024)
Income before operating xfers	(239,332)	130,944		300,498	56,495	775,046		1,350,662
Operating transfers in	-	-		-	173,877	159,387	92%	160,914
Operating transfers (out)	(891,377)	(733,762)	82%	(696,331)	(3,577,500)	(1,627,708)	45%	(1,234,583)
Net Income (Loss)	\$ (1,130,709)	\$ (602,818)		\$ (395,833)	\$ (3,347,128)	\$ (693,275)		\$ 276,993



City of Morgan Hill
Balance Sheets - Water and Sewer Funds
May 31, 2003
92% of Year Complete

	Sewer Operations (640)	Sewer Expansion Stabilization Capital Projects (641-643)	Water Operations (650)	Water Expansion Stabilization Capital Projects (651-653)
ASSETS				
Cash and investments:				
Unrestricted	4,656,572	6,845,905	2,542,775	4,510,491
Restricted ¹	1,862,685	4,797,730	391,422	107,857
Accounts Receivable		6,499		
Utility Receivables	640,027		723,897	
Less Allowance for Doubtful Accounts	(15,230)		(55,868)	
Notes Receivable ²				
Fixed Assets ³	33,230,110	7,321,152	24,217,670	5,644,680
Total Assets	<u>40,374,164</u>	<u>18,971,286</u>	<u>27,819,896</u>	<u>10,263,028</u>
LIABILITIES				
Accounts Payable and Accrued Liabilities	391,338	204,953	66,260	
Deposits for Water Services			37,562	
Deferred Revenue ⁴				
Bonds Payable	25,390,000		6,205,194	
Discount on Bonds and Other Liabilities	(2,157,387)		(1,016,593)	
Accrued Vacation and Comp Time	40,560		64,885	
Total liabilities	<u>23,664,511</u>	<u>204,953</u>	<u>5,357,308</u>	<u>0</u>
FUND EQUITY				
Contributed Capital	7,155,284		13,742,872	
Retained Earnings				
Reserved for:				
Noncurrent water/sewer assets & debt	11,075,394	7,321,152	19,200,312	5,644,680
Encumbrances	53,690	108,928	362,902	484,812
Notes Receivable		0		
Restricted Cash	1,862,685		391,422	
Total Reserved Retained Earnings	12,991,769	7,430,080	19,954,636	6,129,492
Unreserved Retained Earnings	3,717,884	11,336,253	2,507,952	4,133,536
Total Fund Equity	<u>16,709,653</u>	<u>18,766,333</u>	<u>22,462,588</u>	<u>10,263,028</u>
Total Liabilities and Fund Equity	<u>40,374,164</u>	<u>18,971,286</u>	<u>27,819,896</u>	<u>10,263,028</u>

¹ Restricted for Bond Reserve requirements and capital expansion.

² Includes Note for Sewer Financing Agreements.

³ Includes Water and Sewer infrastructure and the City's share of the Wastewater treatment plant.

⁴ Includes the deferred payment portion of the loans noted above.



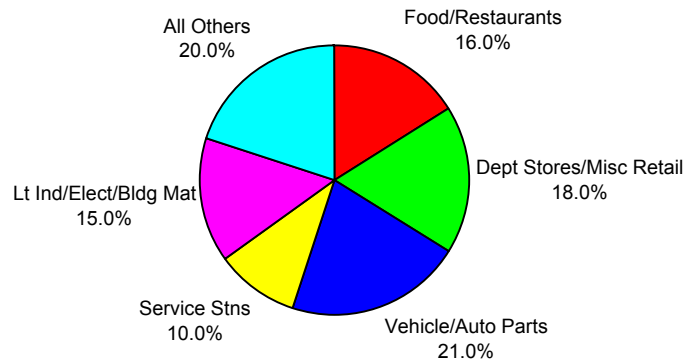
² Includes Housing Rehab loans, Financing Agreements for Public Works Fees and loans for several housing and Agency projects.



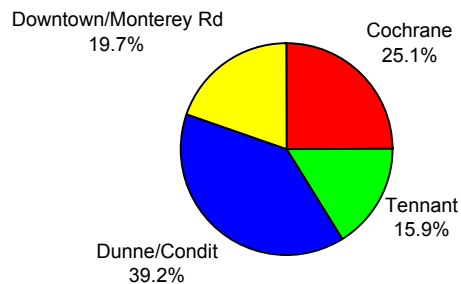
City of Morgan Hill
Sales Tax Comparison - Fiscal Year 2002/03
For the Month of May 2003
92% of Year Complete

Month	Amount Collected for Month for Fiscal Year			Amount Collected YTD for Fiscal Year			Comparison of YTD for fiscal years	
	02/03	01/02	00/01	02/03	01/02	00/01	02/03 to 01/02	02/03 to 00/01
July	\$367,600	\$377,700	\$306,000	\$367,600	\$377,700	\$306,000	(10,100)	61,600
August	\$447,000	\$503,600	\$408,000	\$814,600	\$881,300	\$714,000	(66,700)	100,600
September	\$361,932	\$437,056	\$584,766	\$1,176,532	\$1,318,356	\$1,298,766	(141,824)	(122,234)
October	\$354,915	\$339,000	\$319,200	\$1,531,447	\$1,657,356	\$1,617,966	(125,909)	(86,519)
November	\$474,800	\$452,000	\$425,600	\$2,006,247	\$2,109,356	\$2,043,566	(103,109)	(37,319)
December	\$384,154	\$538,465	\$524,333	\$2,390,401	\$2,647,821	\$2,567,899	(257,420)	(177,498)
January	\$368,600	\$393,900	\$337,700	\$2,759,001	\$3,041,721	\$2,905,599	(282,720)	(146,598)
February	\$487,195	\$466,068	\$450,200	\$3,246,196	\$3,507,789	\$3,355,799	(261,593)	(109,603)
March	\$225,908	\$351,548	\$607,260	\$3,472,104	\$3,859,337	\$3,963,059	(387,233)	(490,955)
April	\$292,698	\$341,042	\$324,700	\$3,764,802	\$4,200,379	\$4,287,759	(435,577)	(522,957)
May	\$394,500	\$461,500	\$432,900	\$4,159,302	\$4,661,879	\$4,720,659	(502,577)	(561,357)
June		\$275,116	\$811,473		\$4,936,995	\$5,532,132		
Year To Date Totals				\$4,159,302	\$4,936,995	\$5,532,132		
Sales Tax Budget for Year				\$5,330,000	\$5,300,000	\$4,462,817		
Percent of Budget				78%	93%	124%		
Percent of increase(decrease)							-11%	-12%

**Sales Tax Distribution
by Business Segment
Fourth Quarter 2002**



**Sales Distribution
by Area
Fourth Quarter 2002**





CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

**TITLE: AGREEMENT BETWEEN THE CITY AND
INDEPENDENCE DAY, INC. TO CO-SPONSOR THE JULY
FOURTH CELEBRATIONS**

RECOMMENDED ACTION(S):

Authorize the City Manager to sign the agreement to co-sponsor the July Fourth Celebrations and support Independence Day Inc. by contributing funding and in-kind services not to exceed \$23,000.

Agenda Item # 3

Prepared By:

Terrie Booten
Lieutenant

Approved By:

Chief of Police

Submitted By:

City Manager

EXECUTIVE SUMMARY: In recent years, the City Council has directed staff to negotiate an agreement with Independence Day Inc. to co-sponsor the July Fourth Celebrations. These events include the Golf Tournament, the July 3rd Patriotic Sing and Street Dance, as well as the July 4th 5K Run, Parade, afternoon Community Festival and evening Fireworks Display. In return, I.D.I. agrees to name the City as a co-sponsor in promoting all of these events. Attached is the agreement for 2003 in which the City will provide supplementary insurance coverage for all of the names events and contribute funding and in-kind services to a limit of \$23,000.

In-kind services include the value of Police and Public Works services which are estimated to total about \$8,620. The City will also provide cash contributions estimated at about \$10,445 to support other costs incurred by I.D.I. roughly equivalent to items like Santa Clara County Fire Department services, private security services to supplement police services, ABC licenses, fencing and other items that may be required to produce these public events.

This agreement is similar to the past agreements and calls for:

1. The evening Fireworks Display, will again be held at the Community Park.
2. Upon approval of the agreement, the City will provide a cash advance of \$10,445 to I.D.I.
3. After submission of financial reports by I.D.I. no later than August 1, 2003, the City shall transfer the balance remaining between the total contribution, less the cash advance and the value of the actual City in-kind services which were provided.

FISCAL IMPACT: Co-sponsorship of the July Fourth Celebrations is included in the FY 02-03 and FY 03-04 General Fund Community Promotions budgets (010-1220). Approximately \$7,000 would be available for remaining community events and YES activities.

AGREEMENT BETWEEN THE CITY OF MORGAN HILL AND INDEPENDENCE DAY, INCORPORATED REGARDING CO-SPONSORSHIP AND SUPPORT OF FOURTH OF JULY ACTIVITIES

THIS AGREEMENT is made this ____ day of June, 2003 by the CITY OF MORGAN HILL, a municipal corporation, ("CITY") and INDEPENDENCE DAY, INC., a California nonprofit corporation ("IDI").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to the City of Morgan Hill's **COUNCIL AUTHORIZATION on June 18, 2003.**
2. In consideration of the long history of contribution to the citizens and community of Morgan Hill by IDI, the CITY desires to co-sponsor and provide certain financial support for certain activities undertaken by IDI.
3. IDI is qualified and willing by virtue of its experience and expertise to conduct the activities the CITY wishes to co-sponsor and support.

AGREEMENT

THE CITY AND IDI MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall be effective for the period of June 3, 2003 until April 30, 2004.
2. **Activities to be Co-sponsored and Supported.** The CITY agrees to co-sponsor and support the following activities held in connection with the 2003 celebration of the 4th of July: the 4th of July parade, community picnic, 5K race, street dance, patriotic sing, golf tournament, and fireworks display. Other events sponsored or conducted by IDI, including but not limited to fund-raisers, are not subject to this Agreement.
3. **Promotional Acknowledgment.** In consideration for this Agreement, IDI agrees that all promotion and advertising for the 2003 4th of July activities shall clearly and prominently indicate that the CITY is a co-sponsor for the activities.
4. **Monetary or Other Support.** The CITY shall support the 2003 4th of July activities by providing the following benefits, services, and funding:
 - a. To the extent permitted by the CITY's insurers, the CITY shall include IDI and the above-referenced 2003 4th of July activities as a special event on the CITY's liability coverage. Such coverage shall be excess coverage only to IDI's primary insurance, which shall comply with the requirements stated below. IDI shall cooperate with CITY and ABAG representatives to secure the coverage and obtain benefits of the coverage if any claim is made against either IDI or CITY. IDI shall not be

responsible for payment of any self-insured retention if it cooperates with CITY in the handling of any claim.

- b. The CITY shall contribute no more than twenty-three thousand dollars (\$23,000) in either in-kind services or actual monetary expenses for the 2003 4th of July activities. Included in this contribution are: (1) payment of wages, including overtime wages, for CITY police officers and other staff necessary to provide traffic control and police patrol before, during, and after the activities; (2) supplies and services provided by Public Works and other CITY departments; (3) payment of fees for all CITY permit and licenses required to hold the 2003 4th of July activities; (4) the increase in IDI insurance costs over base year 2002 insurance costs, and (5) other reasonable and necessary expenses incurred by IDI in conducting the above-referenced activities. Payment of any monetary sum to IDI shall be made following calculation of any in-kind services provided by the CITY for the above-referenced events, and deduction of the value of such services from the amount specified above. Any excess remaining shall be transferred to IDI by August 1, 2003, in a lump-sum payment.
 - c. The CITY shall advance IDI the sum of ten thousand four hundred forty-five dollars (\$10,445) of the total contribution listed in section 4(b) above within fourteen days after IDI has provided the CITY with a written statement, in a form acceptable to the CITY, of IDI's budget for these events listed in section 4(a) above. IDI further agrees to provide the CITY with a financial statement, in a form acceptable by the CITY, no later than August 1, 2003 regarding the actual expenditures on and revenue derived from the events listed in Section 4(a) above.
 - d. Should IDI be unable to produce and deliver to completion any of the events listed in section 2 above, the total amount of the CITY'S contributions to IDI listed in subsection b. above will be reduced by the value of CITY services required to be supplied for that event.
5. **Risk Management/Control of Public Safety.** IDI shall incorporate all risk management recommendations made by CITY or ABAG in its planning and operations. The CITY'S Police Chief shall at all times remain in control of all public safety issues arising out of or connected in any way with the above-referenced 2003 4th of July activities undertaken by IDI. The Police Chief may delegate this authority to any subordinate officer of the Department. The nature and amount of police services to be provided for events within the CITY limits shall be determined solely by CITY'S Police Chief. IDI further agrees to coordinate and comply with all requirements and directions of the Santa Clara County Fire Department in planning and conducting the 2003 4th of July activities.
6. **Permits and Approvals.** Immediately upon execution of this Agreement IDI shall submit requests for all State, County and/or CITY approvals, permits and licenses required for the 2003 4th of July activities that have not previously been submitted and shall diligently pursue issuance of the required authorizations. CITY shall have no obligation to provide liability protection or financial support under this Agreement if any required approval, permit, or license remains unissued on June 21, 2003.

7. **Amendment and Termination of Agreement.** This Agreement may be terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party.
8. **Insurance Requirements.**
 - a. **Commencement of Work.** IDI shall not commence work under this Agreement until it has obtained CITY approved insurance. All insurance required by this Agreement shall be carried only by responsible insurance companies which are either licensed to do business in California or which are authorized to write insurance surplus lines in California meeting the requirements of paragraph c. below, and shall name as additional insured CITY, its elected officials, officers, employees, agents and representatives. All policies shall contain language to the effect that: (1) the insurer waives the right of subrogation against CITY and CITY'S elected officials, officers, employees, agents, and representatives; (2) insurance shall be primary non-contributing; and (3) the policies shall provide that they shall not be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY by certified mail. IDI shall furnish CITY with copies of all such policies or certificates promptly upon receipt.
 - b. **Insurance Amounts.** IDI shall maintain comprehensive, broad form, and general public liability against claims and liabilities for personal injury, death, or property damage, providing protection of at least \$1,000,000 for bodily injury or death to any one person for any one accident or occurrence and at least \$1,000,000 for property damage. In addition, the CITY, its officers, agents and employees shall be named as additional insured on the Fireworks company's \$2,000,000 liability policy.
 - c. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.
9. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.
10. **Non-Discrimination.** IDI covenants there shall be no discrimination based upon race, color, creed, religion, gender, sexual orientation, marital status, age, disability, national origin, or ancestry, in any activity pursuant to this Agreement.
11. **Independent Contractor.** It is agreed to that IDI, its officers, employees, agents and volunteers shall act as independent contractors and not as agents or employees of the CITY.
12. **Compliance with Law.** IDI shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
13. **Conflict of Interest and Reporting.** IDI shall at all times avoid conflict of interest or appearance of conflict of interest in the performance of this Agreement.
14. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. Notices shall be effective five (5) days after date of mailing, or upon date of

personal delivery. These addresses shall be used for delivery of service of process.

- a. Address of IDI is as follows:
IDI
P.O. BOX 1776
Morgan Hill, CA 95038
- b. Address of CITY is as follows:

City Manager	with a copy to:
City of Morgan Hill	City Clerk
17555 Peak Avenue	17555 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

- 15. **Licenses, Permits and Fees.** IDI shall obtain a City of Morgan Hill Business License, all permits, and licenses as may be required by this Agreement.
- 16. **Familiarity with Work.** By executing this Agreement, IDI warrants that: (1) it has investigated the activities to be performed, (2) it has investigated the site of the activities and is aware of all conditions there; and (3) it understands the difficulties, and restrictions of the activities under this Agreement. Should IDI discover any conditions materially differing from those inherent in the activities or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at IDI'S risk, until written instructions are received from CITY.
- 17. **Time of Essence.** Time is of the essence in the performance of this Agreement.
- 18. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement or any portion shall be assigned by IDI without prior written consent of CITY. The experience, knowledge, capability, and reputation of IDI, its principals and employees were a substantial inducement for CITY to enter into this Agreement. IDI shall not contract with any other entity to receive the funding set forth in this Agreement without written approval of the CITY. If IDI is permitted to subcontract any part of this Agreement, IDI shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. No persons engaged in the work will be considered employees of CITY. CITY will deal directly with and will make all payments to IDI.
- 19. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.
- 20. **Indemnification.** IDI agrees to indemnify, defend and hold harmless the CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by IDI, IDI'S agents, officers, employees, volunteers, subcontractors, or independent contractors hired by IDI. The only

exception to IDI'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY. The limits of IDI'S indemnification shall be their insurance limits.

21. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified on provisions waived only by subsequent mutual written agreement executed by CITY and IDI.
22. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and IDI.
23. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Santa Clara County Superior Court.
24. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
25. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

ATTEST:

CITY OF MORGAN HILL

By: _____
City Clerk
Date: _____

By: _____
City Manager
Date: _____

APPROVED:

"IDI"

By: _____
Risk Manager
Date: _____

By: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

By: _____
City Attorney
Date: _____

NOTE: THIS AGREEMENT SHALL NOT BE USED FOR AMOUNTS OVER \$100,000.00



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

APPROVAL OF PURCHASE AGREEMENT WITH MHUSD FOR BURNETT AVENUE WELL SITE

RECOMMENDED ACTION(S): Approve Purchase Agreement With Morgan Hill Unified School District Conveying Burnett Avenue Well Site.

EXECUTIVE SUMMARY:

In July 2002, the City entered into a Memorandum of Understanding with the Morgan Hill Unified School District regarding the development of the Sobrato High School site. That MOU, which governs provision of sewer, police, fire and water services to the site, provides that the City will transfer the Burnett Avenue well property to the District, which needs the property for street improvements. The MOU requires the District to be responsible for abandoning the well in accordance with state and federal regulations.

The District has proposed that the City enter into the attached Purchase Agreement to transfer the well. The Agreement provides that in exchange for the District assuming all costs and liabilities of closing the well, the City will transfer the well site to the District at no cost. In order to ensure that the well is available to the City during the upcoming peak service months, the transfer date will be October 1, 2003.

FISCAL IMPACT:

There is no cost to the City associated with the transfer, other than staff time to review the Purchase Agreement. The City will save the eventual costs of abandoning and capping the well.

Agenda Item # 4

Prepared By:

Helene Leichter
City Attorney

Submitted By:

J. Edward Tewes
City Manager



CITY COUNCIL STAFF REPORT
MEETING DATE: JUNE 18, 2003

Agenda Item # 5

Prepared By:

**Manager, Recreation &
Community Services**

Submitted By:

City Manager

**SHARKS IN THE PARK SPONSORSHIP FOR YOUTH ADVISORY
COMMITTEE ACTIVITY**

RECOMMENDED ACTION(S):

Council to co-sponsor the Youth Advisory Committee's request to submit a grant to the Sharks in the Park Youth Street Hockey program; and Authorize the City Manager to add the Shark' organization Street Hockey program as additionally insured through the city's insurance.

EXECUTIVE SUMMARY:

Youth Advisory Committee (YAC) would like to submit a grant to the Sharks in the Park program. The Sharks organization chooses 10 cities each summer to provide free hockey equipment and the technical assistance needed to start a street hockey team. Cities are asked to provide a volunteer coach, a place to play and \$5 million insurance coverage.

The YAC have approved to support this project and have a volunteer coach. They are proposing to hold the practices at Community Park because of the neighborhood youth who may be attracted to this type of sport activity and who are typically underserved. Board members of the YAC have submitted a letter to the Mayor requesting sponsorship by the city for the insurance coverage.

The City Attorney and the City Risk Manager have reviewed this request and state that Council will need to officially co-sponsor the activity in order to provide the program as additionally insured through the City's insurance agency. Liability waivers will need to be signed in order to participate. This program will be operated through the city's recreation services division in cooperation with YAC.

FISCAL IMPACT: No direct budget impact as the program will be covered by the grant and registration fees. There is the unknown cost factor if an insurance claim is made against the city relating to participation in this program. There is a \$100,000 deductible per incident with the city's insurance broker.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

S.T.A.R. SUMMER PROGRAM CONTRACT

RECOMMENDED ACTION(S):

Authorize the City Manager to Execute a Contract in the amount not to exceed \$25,000.00 for the children's drama camp entitled STAR (Summer Theater Art Repertory) Camp.

EXECUTIVE SUMMARY:

The City's Recreation and Community Services division has partnered this summer with Gavilan College Community Education S.T.A.R. (Summer Theater Arts Repertory) program to provide a three week drama camp. The camp will be held at the Community and Cultural Center and will culminate with a musical by the young drama students (ages 8-13 years). The musical will be "Give My Regards to Broadway" and will be under the direction of Gavilan College Theater Arts Director Marilyn Abad Cardinalli. Performance dates are August 1, August 2, and August 3.

The camp fee is \$475 per person. There is room for 50 students so the contract may exceed \$20,000, in which case Council authorization is required.

FISCAL IMPACT: This program will cover all direct costs and provide a minimum return to the city. The City is also providing a before and after hours program in cooperation with the drama camp.

Agenda Item # 6

Prepared By:

**Manager, Recreation &
Community Services**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

TITLE Comcast Sewer/Traffic Fee Financing

RECOMMENDED ACTION(S):

- 1) Approve a Sewer/Traffic Fee Financing Agreement of \$235,020 for up to two years to Comcast Cable Communications, Inc. for 18665 Madrone Parkway.
- 2) Authorize the City Manager to do everything necessary to execute the Sewer/Traffic Fee Financing Agreement

Agenda Item # 7

Prepared By:

BAHS Analyst

Approved By:

BAHS Director

Submitted By:

City Manager

EXECUTIVE SUMMARY:

Comcast is establishing an incoming call center in the Madrone Business Park. The center will initially provide 300 jobs and could ultimately provide as many as 500. However, development and start-up costs for such an operation are quite high and Comcast is seeking to mitigate part of this initial expense through a Sewer/Traffic Fee Financing Agreement.

The Sewer/Traffic Impact Fee Deferral Ordinance authorizes the City Manager to allow deferrals of up to 80% of Sewer and/or Traffic Impact Fees when those combined fees exceed \$10,000. Deferrals of more than \$50,000 require approval by the City Council. Deferrals may not exceed 5-years and require normally amortized monthly payments, including interest accruing at the prime lending rate. The rate is adjusted to reflect the prime rate on the first business day of each calendar year that a portion of the loan remains outstanding. The City Manager can suspend the program at any time its continuation will negatively affect the sewer or traffic impact funds.

Comcast is requesting that the City allow them to finance 80% of their sewer and traffic impact fees. (See the attached letter.) Staff is recommending a two-year deferral period. CIP projections show that the City would need to borrow at least \$8 million in bond financing for sewer impact fee funded improvements in FY 04-05. Assuming a normal repayment, Comcast might still owe about \$41,000 at the beginning of that fiscal year. However, interest on the loan may provide a positive arbitrage. Traffic impact fee funded CIP projects would not be affected by a two year loan.

The 20% down payment required for the combined impact fee categories is \$58,755, while the total financed is \$235,020. The loan will be secured by a deed of trust against the property and will be amortized at the "prime lending rate" (currently around 4.25%). Comcast has promised to make a good faith effort to recruit and hire Morgan Hill residents.

FISCAL IMPACT:

Sewer/Traffic Impact Fees in the amount of \$235,020 will be returned to the City over a two year period at the prime lending rate.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

APPROVAL OF CONTRACT FOR INTERIM MAINTENANCE SUPERVISOR

RECOMMENDED ACTION: Approve the attached agreement and authorize the City Manager to execute a contract to continue the contract services of an Interim Maintenance Supervisor.

EXECUTIVE SUMMARY: In February 2003 Council approved a contract to continue the services of Mr. Glenn Lyles in the position of Interim Maintenance Supervisor through June 30, 2003. This position is key to the Public Works Operations Division providing supervision of 13 full time positions in the Parks and Streets functions. Mr. Lyles has been a valuable asset to the Parks and Streets maintenance effort over the past 6 months. Some of the key things he has accomplished are: Organized comprehensive maintenance programs for storm drain maintenance and weed abatement work, facilitated positive outcomes to personnel issues, helped make the '03-'04 budget process inclusive of Streets and Parks Senior Workers, and established work plans and a more proactive approach to maintenance.

At this time it is necessary to extend the agreement with Mr. Lyles through December 31, 2003 at an additional cost not to exceed \$25,000.

During this 6 month period, Mr. Lyles will be working on a "transition plan". This plan will include working with the Senior Workers in Parks and Streets to become able to function more autonomously within their job duties regarding purchasing, time card review, work order recording and accounting, and organizing daily work assignments. This "transition plan" will help the Streets and Parks divisions to learn to function more efficiently over the next year.

If this contract is approved, Mr. Lyles' services from now until December 31, 2003, will be funded by the Parks and Streets Operations Budget. Mr. Lyles works three days per week on average.

FISCAL IMPACT: Sufficient funding exists in the 2003-04 Parks and Streets Operations Budgets to fund these services.

Agenda Item # 8

Prepared By:

Dep Dir Public Works

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *June 18, 2003*

AWARD BID FOR SCADA TELEMETRY REPLACEMENT PROJECT

RECOMMENDED ACTION(S):

1. Authorize the transfer of \$278,140 (const) from project #607A98 (Jackson Oaks Booster Station) to project #606093 (Replacement SCADA).
2. Award Contract in the amount of \$1,254,845 to Tesco Controls Inc. for the SCADA Replacement Project.
3. Authorize the issuance of CCO #1 for the SCADA Project to deduct work items totaling approximately \$330,555.
4. Authorize \$135,000 (15%) construction contingency for the project.
5. Approve Professional Services Contract in the amount of \$101,942 for telemetry construction support services with Carollo Engineers.

EXECUTIVE SUMMARY:

The City's existing telemetry system that controls all the wells, reservoirs, water booster stations, major valves, sewer and storm water lift stations is obsolete and no longer supported by the manufacturer. The system needs to be replaced with a new Supervisory Control and Data Acquisition (SCADA) System.

A new computerized and radio controlled system was designed and bid. Tesco Controls was the sole bidder. The design engineer and staff have determined that the bid is within pricing norms for this kind of information technology, and that Tesco has the high level of corporate experience and knowledge necessary for the execution of the work.

The single bid exceeds available funds, and proposed CCO #1 is a deduct change order that will 1) postpone several remote locations that are not yet ready for SCADA telemetry, 2) correct a specification ambiguity about how many locations only require programming because the hardware has been or is being acquired in other CIP projects and 3) reduced the amount of required operator training and outside testing. On 6/4/03, Tesco provided a cost estimate \$330,555 for the deducted work. If this change order is executed, the Contract Price will be revised to \$918,290.

The services of the design engineer, Carollo Engineers, will be needed to advise the City on the technical aspects of this system of computers and radios to control 42 locations throughout the City. The engineer has proposed a fee of \$101,942 for construction administration support services. This work includes substantial field observations and testing of the new systems.

The SCADA Replacement project will involve every water, sewer and storm drain operating location within the City. Due to scheduling limitations, the project is scheduled to take a year to complete. The total funding designated by this action is \$1,161,232.

FISCAL IMPACT:

Funds were appropriated for the SCADA Replacement Project in FY 02-03:

Source		PN	Funds Available
Water Fund	653	606093	\$498,937
Sewer Fund	643	305093	<u>\$384,155</u>
			\$883,092

Additional funds are available by postponing the Jackson Oaks Booster Station construction (607A98). This rehabilitation project is ready to bid, but the booster station can wait for the next funding year before its rehabilitation is started. The unencumbered funds available are \$472,793 in the Water Fund. The amount to be transferred to the SCADA Replacement project is \$278,140.

Agenda Item # 9

Prepared By:

Contract Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: JUNE 18, 2003

SETTING OF ANNUAL PUBLIC HEARING FOR FOX HOLLOW-MURPHY SPRINGS LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT

RECOMMENDED ACTION: 1) Approve the attached nine Resolutions setting the annual Public Hearing for the Fiscal Year 2003-2004 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District.

2) Direct the City Clerk to notice a copy of the resolutions as noted.

EXECUTIVE SUMMARY: The Fox Hollow-Murphy Springs Assessment District was created to pay for the maintenance of the parks and common area landscaping in new neighborhoods benefitting from the open space. Per government code sections 22623 to 22631, an engineer's report is required to set the annual assessments in the lighting and landscaping district.

Attached is the required preliminary engineer's report and resolutions. Prior to the public hearing date, the City Council is required to declare their intent to levy assessments. The public hearing date is set for the City Council meeting of July 16, 2003.

The district consists of 20 residential sub-areas, affecting a total of 755 lots. Proposed changes in the annual assessments for each sub-area are shown on Exhibit B. In summary, it is proposed the assessment rate increase in 3 sub-areas, decrease in 1, and remain unchanged in 16. None of the proposed assessment rate increases exceed the maximum assessment rate approved at the time of the sub-areas annexation into the district and therefore, balloting procedures as described in Proposition 218 are not required. The City is not required by law to notify property owners of proposed changes in assessment rates prior to the public hearing date, however, staff will notify the 219 property owners in the 3 sub-areas where an increase in their assessment rate is proposed.

The changes in assessment rates as proposed are necessary to adjust the fund balance or deficit in each sub-area. Staff is managing the District to create or maintain approximately a \$2,000 positive fund balance for each individual sub-area. This fund balance will then serve as a contingency for maintenance costs for any given fiscal year. As staff anticipates one-time expenses requiring more than the \$2,000 contingency, an increase in assessment rate will be proposed.

The attached memo dated June 6, 2003 to the City Manager provides specific information regarding the financial status of each sub-area and staff recommendations regarding the assessment rates for Fiscal Year '03-04.

The nine resolutions, in summary, are to 1) Initiate the proceedings for the levy of the assessments in the district, 2) Provide preliminary approval of the engineer's report and the proposed assessment levy and 3) Declare the City Council's intention to levy the assessments in the district and to set the Public Hearing for July 16, 2003 at 7:00 p.m. These resolutions comply with the Landscaping and Lighting Act of 1972.

FISCAL IMPACT: The cost for preparation of this staff report and the engineer's report will be paid for by the Assessment District. It is anticipated that the District will generate **\$135,855** in gross revenues for the Fiscal Year 2003-04 and will offset the costs of maintenance provided.

Agenda Item # 10

Prepared By:

**Deputy Director Public
Works/ Operations**

Approved By:

Director Public Works

Submitted By:

City Manager

RESOLUTION NO. 5674

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed and levied annual assessments for the Fox Hollow Murphy Springs Landscape Assessment District (**excluding the Conte Gardens and Sandalwood Estates Zones**), (hereafter referred to as the "District"), pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

WHEREAS, the City Council has retained NBS Government Finance Group for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

Section 1 Annual Levy Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer's Annual Levy Report concerning the levy and collection of assessments for the District for the fiscal year commencing July 1, 2003 and ending June 30, 2004 in accordance with *Chapter 3, Section 22622* of the Act.

Section 2 Proposed improvements and any substantial changes in existing improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition. The Engineer's Annual Levy Report describes all new improvements or substantial changes in existing improvements.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5674, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5675

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING ITS INTENTION FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the “City Council”) does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed the Fox Hollow/Murphy Springs Landscape Assessment District (**excluding the Conte Gardens and Sandalwood Estates Zones**), (hereafter referred to as the “District”), and initiated proceedings for Fiscal Year 2003/04, pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the “Act”) that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

WHEREAS, the City Council has retained NBS Government Finance Group for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

Section 1 Intention: The City Council hereby declares that it is its intention to seek the Annual Levy of the District pursuant to the Act, over and including the land within the District boundary, and to levy and collect assessments on all such land to pay the annual costs of the improvements. The City Council finds that the public’s best interest requires such levy and collection.

Section 2 District Boundaries: The boundaries of the District are described as the boundaries previously defined in the formation documents of the original District, within the boundaries of the City of Morgan Hill, within the County of Santa Clara, State of California.

Section 3 Description of Improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

Section 4 Proposed Assessment Amounts: For Fiscal Year 2003/04, the proposed assessments are outlined in the Engineer’s Annual Levy Report which details any changes or increases in the annual assessment.

Section 5 Public Hearing(s): The City Council hereby declares its intention to conduct a Public Hearing annually concerning the levy of assessments for the District in accordance with *Chapter 3, Section 22626* of the Act.

Section 6 Notice: The City shall give notice of the time and place of the Public Hearing to all property owners within the District by causing the publishing of this Resolution once in the local newspaper not less than ten (10) days before the date of the Public Hearing, and by posting a copy of this resolution on the official bulletin board customarily used by the City Council for the posting of notices. Any interested person may file a written protest with the City Clerk prior to the conclusion of the Public Hearing, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and a protest by a property owner shall contain a description sufficient to identify the property owned by such property owner. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

Section 7 Notice of Public Hearing: Notice is hereby given that a Public Hearing on these matters will be held by the City Council on **Wednesday July 16, 2003 at 7:00 p.m.** or as soon thereafter as feasible in the City Council Chambers, located at 17555 Peak Avenue, Morgan Hill.

Section 8 The City Clerk is hereby authorized and directed to give notice of such hearing as provided by law.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔊 CERTIFICATION 🔊

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5675, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5676

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ENGINEER'S ANNUAL LEVY REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") did by previous Resolution, order the preparation of an Annual Levy Report (hereafter referred to as the "Report") for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (**excluding the Conte Gardens and Sandalwood Estates Zones**), (hereafter referred to as the "District"); and,

WHEREAS, there has now been presented to this City Council the Report as required by *Chapter 1, Article 4, Section 22566* of said Act; and,

WHEREAS, this City Council has carefully examined and reviewed the Report as presented and is preliminarily satisfied with the District, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 That the above recitals are true and correct.

Section 2 That the "Report" as presented, consisting of the following:

- a. A Description of Improvements.
- b. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
- c. The District Roll containing the Fiscal Year 2003/04 Levy for each Assessor Parcel within the District.

is hereby approved on a preliminary basis, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

Section 3 That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Report.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5676, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5677

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed and levied annual assessments for the Fox Hollow Murphy Springs Landscape Assessment District (**referring only to the Conte Gardens Zone**), (hereafter referred to as the "District"), pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

WHEREAS, the City Council has retained NBS Government Finance Group for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

Section 1 Annual Levy Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer's Annual Levy Report concerning the levy and collection of assessments for the District for the fiscal year commencing July 1, 2003 and ending June 30, 2004 in accordance with *Chapter 3, Section 22622* of the Act.

Section 2 Proposed improvements and any substantial changes in existing improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition. The Engineer's Annual Levy Report describes all new improvements or substantial changes in existing improvements.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5677, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5678

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING ITS INTENTION FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2003/04.

The City Council of the City of Morgan Hill (hereafter referred to as the “City Council”) does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Conte Gardens Zone**), (hereafter referred to as the “District”), and initiated proceedings for Fiscal Year 2003/04, pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the “Act”) that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

WHEREAS, the City Council has retained NBS Government Finance Group for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

Section 1 Intention: The City Council hereby declares that it is its intention to seek the Annual Levy of the District pursuant to the Act, over and including the land within the District boundary, and to levy and collect assessments on all such land to pay the annual costs of the improvements. The City Council finds that the public’s best interest requires such levy and collection.

Section 2 District Boundaries: The boundaries of the District are described as the boundaries previously defined in the formation documents of the original District, within the boundaries of the City of Morgan Hill, within the County of Santa Clara, State of California.

Section 3 Description of Improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

Section 4 Proposed Assessment Amounts: For Fiscal Year 2003/04, the proposed assessments are outlined in the Engineer’s Annual Levy Report which details any changes or increases in the annual assessment.

Section 5 Public Hearing(s): The City Council hereby declares its intention to conduct a Public Hearing annually concerning the levy of assessments for the District in accordance with *Chapter 3, Section 22626* of the Act.

Section 6 Notice: The City shall give notice of the time and place of the Public Hearing to all property owners within the District by causing the publishing of this Resolution once in the local newspaper not less than ten (10) days before the date of the Public Hearing, and by posting a copy of this resolution on the official bulletin board customarily used by the City Council for the posting of notices. Any interested person may file a written protest with the City Clerk prior to the conclusion of the Public Hearing, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and a protest by a property owner shall contain a description sufficient to identify the property owned by such property owner. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

Section 7 Notice of Public Hearing: Notice is hereby given that a Public Hearing on these matters will be held by the City Council on **Wednesday July 16, 2003 at 7:00 p.m.** or as soon thereafter as feasible in the City Council Chambers, located at 17555 Peak Avenue, Morgan Hill.

Section 8 The City Clerk is hereby authorized and directed to give notice of such hearing as provided by law.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔊 CERTIFICATION 🔊

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5678, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5679

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ENGINEER'S ANNUAL LEVY REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2003/04.

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") did by previous Resolution, order the preparation of an Annual Levy Report (hereafter referred to as the "Report") for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Conte Gardens Zone**), (hereafter referred to as the "District"); and,

WHEREAS, there has now been presented to this City Council the Report as required by *Chapter 1, Article 4, Section 22566* of said Act; and,

WHEREAS, this City Council has carefully examined and reviewed the Report as presented and is preliminarily satisfied with the District, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 That the above recitals are true and correct.

Section 2 That the "Report" as presented, consisting of the following:

- a. A Description of Improvements.
- b. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
- c. The District Roll containing the Fiscal Year 2003/04 Levy for each Assessor Parcel within the District.

is hereby approved on a preliminary basis, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

Section 3 That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Report.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5679, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5680

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2003/04.

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed and levied annual assessments for the Fox Hollow Murphy Springs Landscape Assessment District (**referring only to the Sandalwood Estates Zone**), (hereafter referred to as the "District"), pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

WHEREAS, the City Council has retained NBS Government Finance Group for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

Section 1 Annual Levy Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer's Annual Levy Report concerning the levy and collection of assessments for the District for the fiscal year commencing July 1, 2003 and ending June 30, 2004 in accordance with *Chapter 3, Section 22622* of the Act.

Section 2 Proposed improvements and any substantial changes in existing improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition. The Engineer's Annual Levy Report describes all new improvements or substantial changes in existing improvements.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5680, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5681

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING ITS INTENTION FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2003/04.

The City Council of the City of Morgan Hill (hereafter referred to as the “City Council”) does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Sandalwood Estates Zone**), (hereafter referred to as the “District”), and initiated proceedings for Fiscal Year 2003/04, pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the “Act”) that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

WHEREAS, the City Council has retained NBS Government Finance Group for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

Section 1 Intention: The City Council hereby declares that it is its intention to seek the Annual Levy of the District pursuant to the Act, over and including the land within the District boundary, and to levy and collect assessments on all such land to pay the annual costs of the improvements. The City Council finds that the public’s best interest requires such levy and collection.

Section 2 District Boundaries: The boundaries of the District are described as the boundaries previously defined in the formation documents of the original District, within the boundaries of the City of Morgan Hill, within the County of Santa Clara, State of California.

Section 3 Description of Improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

Section 4 Proposed Assessment Amounts: For Fiscal Year 2003/04, the proposed assessments are outlined in the Engineer’s Annual Levy Report which details any changes or increases in the annual assessment.

Section 5 Public Hearing(s): The City Council hereby declares its intention to conduct a Public Hearing annually concerning the levy of assessments for the District in accordance with *Chapter 3, Section 22626* of the Act.

Section 6 Notice: The City shall give notice of the time and place of the Public Hearing to all property owners within the District by causing the publishing of this Resolution once in the local newspaper not less than ten (10) days before the date of the Public Hearing, and by posting a copy of this resolution on the official bulletin board customarily used by the City Council for the posting of notices. Any interested person may file a written protest with the City Clerk prior to the conclusion of the Public Hearing, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and a protest by a property owner shall contain a description sufficient to identify the property owned by such property owner. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

Section 7 Notice of Public Hearing: Notice is hereby given that a Public Hearing on these matters will be held by the City Council on **Wednesday July 16, 2003 at 7:00 p.m.** or as soon thereafter as feasible in the City Council Chambers, located at 17555 Peak Avenue, Morgan Hill.

Section 8 The City Clerk is hereby authorized and directed to give notice of such hearing as provided by law.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5681, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5682

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ENGINEER'S ANNUAL LEVY REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2003/04.

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") did by previous Resolution, order the preparation of an Annual Levy Report (hereafter referred to as the "Report") for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Sandalwood Estates Zone**), (hereafter referred to as the "District"); and,

WHEREAS, there has now been presented to this City Council the Report as required by *Chapter 1, Article 4, Section 22566* of said Act; and,

WHEREAS, this City Council has carefully examined and reviewed the Report as presented and is preliminarily satisfied with the District, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 That the above recitals are true and correct.

Section 2 That the "Report" as presented, consisting of the following:

- a. A Description of Improvements.
- b. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
- c. The District Roll containing the Fiscal Year 2003/04 Levy for each Assessor Parcel within the District.

is hereby approved on a preliminary basis, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

Section 3 That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Report.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5682, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES – JUNE 4, 2003**

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 7:03 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Chang, Sellers and Mayor Kennedy
Absent: Council Member Tate.

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Action: *The Council deferred this agenda to the conclusion of the Joint Special/Regular City Council and Special Redevelopment Agency meeting.*

RECONVENE

Mayor Kennedy reconvened the meeting at 10:58 p.m.

Action: *Mayor Pro Tempore Chang made a motion, seconded by Council Member Sellers, to extend the meeting to 11:30 p.m. The motion carried 4-0 with Council Member Tate absent.*

CONSENT CALANDER

1. APPROVAL OF LEASE OF PERCHLORATE REMOVAL PLANT TO BE INSTALLED AT THE TENNANT WELL SITE AND/OR THE NORDSTROM WELL SITE, PURSUANT TO EMERGENCY EXPENDITURE

Chuck Dell, representing Ionics, indicated that his firm was the low bidder in the efforts to do the project at Tennant for the Santa Clara Valley Water District. He stated that the sole reason the firm was not selected by the Water District was due to the concern that the DHS approval could not occur quickly enough. He said that he understands the action being taken for the Tennant well job. However, he noted that the agenda item, as listed, states Tennant and/or Nordstrom well. He stated that the firm's bid was 15% lower than the initial cost and that he understands that this is not being funded by the City. The firm was 52% lower on the annual recurring costs. If the Council is to be orchestrating the lease as the operator of the Tennant or Nordstrom site, he requested that there be an opportunity for Ionics to prove, that as low bidder, they can meet the DHS approval requirements for the Nordstrom site. He said

that the Water District's wording of the lease, if adopted by the City, does not preclude the future recurring activities and maintenance costs of the site being put up for bid. He did not want the City to be locked into one specific supplier as it could take decades to resolve a perchlorate issue.

Mayor Kennedy inquired when Ionics expects to have the facility certified by the State.

Mr. Dell responded that it is not the facility that is certified but the treatment methodology that is certified. He said that the media being used is a commodity and not specific to a vendor. He indicated that vendors do not make the media that removes the perchlorate but that it is a service function.

Mayor Kennedy indicated that the Council has listened to Mr. Dell's concerns and that they would be taken into consideration.

City Manager Tewes inquired how quickly Ionics can be permitted and operational for other sites other than the Tennant Avenue site.

Mr. Dell responded that it was his belief that Ionics could be permitted and operational within a month. He indicated that the Water District's concern was that DHS has the legislative ability to wait 90-days to issue an approval. He stated that DHS has to approve the potable treatment, noting that it is the City's permit that is being amended. The City is amending the permit of the Water District to accept the bid and that they are funding the project.

No further comments were offered.

Action: *This item was deferred to the conclusion of closed sessions as listed in the Special/Regular City Council and Special Redevelopment Agency meeting.*

2. REIMBURSEMENT TO HARLEY DAVIDSON DEVELOPER FOR OFFSITE STORM DRAIN IMPROVEMENTS - MORGAN HILL AQUATICS COMPLEX

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion By Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, Authorized Reimbursement of \$25,863 for offsite storm drain improvements - Morgan Hill Aquatics Complex to Live Wire, LLC, Subject to approval of the City's Standard Reimbursement Agreement.*

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting to Closed Session under the Joint Special/Regular City Council and Special Redevelopment Agency meeting at 11:08 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 12:15 a.m.

**1. APPROVAL OF LEASE OF PERCHLORATE REMOVAL PLANT TO BE
INSTALLED AT THE TENNANT WELL SITE AND/OR THE NORDSTROM
WELL SITE, PURSUANT TO EMERGENCY EXPENDITURE**

Action: *By consensus, the City Council **Authorized** the City Manager to execute documents as required with both the Santa Clara Valley Water District and US Filter, as needed, to provide for the lease of perchlorate removal plants at Tennant well and other wells as determined by the City Manager.*

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 12:16 a.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – JUNE 4, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers and Mayor/Chairperson Kennedy.
Absent: Council/Agency Member Tate.

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

1.

EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name/Number: Santa Teresa Citizen Action Group et al. v. Bay Area Air Quality Management District
(Court of Appeals, First District, A102518).

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation
Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 4

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Legal Authority: Government Code 54956.9(a)
Case Name: San Jose Christian College v. City of Morgan Hill
Case Number: Ninth Circuit Court of Appeal, No. 02-15693

4.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code 54957
Public Employee Performance Evaluation: City Manager
Attendees: City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/ Chairperson Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to Closed Session at 6:02 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:03 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/ Agency Counsel Leichter announced that the closed session items were continued to the conclusion of the agenda.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairperson Kennedy, Marlon Spenser, Leadership Morgan Hill 2003 Class, let the Pledge of Allegiance.

RECOGNITIONS

Lieutenant Booten indicated that Officers Gary Cupps and Max Cervantes put a lot of time and effort into mentoring the Police Department's Explorer Post, giving them exposure and experience in the law enforcement field. She said that the group participated in the Explorer Challenge 2002 in Sacramento, competing against approximately 370 youths across the state. She indicated that the Morgan Hill team brought home a 2nd place trophy in "Female Physical Agility." Also recognized were Officer Stacy Thornburg, Sergeant Mark Brazeal, and Sergeant Dave Meyers who provided time and expertise in helping the Explorer Post train for this event.

Mayor Kennedy presented Certificates of Recognition to the Morgan Hill Police Department Explorers Nathan Mazon, Alfredo Carrasco, Ryan Halla, Gabriel Sedberry, and Tamara Cupps; and their Advisors Officer Gary Cupps, Officer Max Cervantez; and Officer Stacey Thornburg for their participation in the Statewide Explorer competition for 2003.

CITY COUNCIL REPORT

Mayor Kennedy recognized all individuals who worked on the fundraising event for the Morgan Hill Community Health Foundation. He stated that a very successful fundraising event was held last Saturday and that over \$85,000 was raised. He presented an assimilated check in the amount of \$70,000 in matching funds to Foundation Board Members Bill Brown, President, Glenda Garcia, and Joe Mueller as well as Marylyn Leibers. He indicated that the purpose of the fundraising event is to provide funding to assist in the restoration of medical services in Morgan Hill (e.g., primary care physicians and an urgent care facility).

COUNCIL SUBCOMMITTEE REPORT

No Council subcommittee reports were presented this evening.

CITY MANAGER REPORT

City Manager Tewes indicated that for several weeks, the Council has discussed whether or not to participate, facilitate, and/or fund experimentation relating to the impact of using domestic water provided by the City of Morgan Hill on backyard gardening. He stated that the Council has directed him to contact various relevant agencies who have responsibilities in this area. He said that he has spoken with the agricultural commissioner and recently spoke with the Regional EPA Perchlorate Coordinator. These individuals have given him their analysis and suggestions on this approach. He stated that he would be preparing a report for the Mayor and Council outlining their concerns and suggestions on how the City might proceed.

CITY ATTORNEY REPORT

City Attorney Leichter did not have a City Attorney's report to present this evening.

OTHER REPORTS

No other reports were presented.

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on the agenda.

Cindy Gobin, 575 Bonnie View Court, was happy to hear that something was being done regarding a possible test garden. It was her hope that this process does not take too long as it is almost summer.

Anita Zupan, resident of Hidden Meadow Townhomes, informed the Council that the area residents have several concerns about the Albertson Shopping Center at East Dunne and Monterey Road.

She noted that the sign is broken and that shops are closing. She expressed concern with the appearance of the center as it is not an image for Morgan Hill. She inquired as to the action the City is taking to revitalize the shopping center. She said that when stores close, they invite activities that are not good or positive for the area.

City Manager Tewes said that several months ago, the Redevelopment Agency Board launched a study. The City hired consultants to help the City come up with a revitalization plan for the center. He indicated that the results are expected within 30 days or so. He indicated that staff would make sure that Ms. Zupan and her neighbors are informed about the study.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy requested that item 4 and Council Member Sellers requested that item 6 be removed from the Consent Calendar.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Approved** Consent Calendar Items 1-3, 5 and 7-14, as follows:*

1. EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES

Action: Authorized *the City Manager to Execute a Contract in the Amount of \$60,000 for Contract Planning Services. Approval of the Contract Extension is Contingent on City Council Approval of the Planning Division's Fiscal Year 2003-2004 Budget, as Recommended for Contract Labor Services.*

2. AMEND AGREEMENT WITH THE STROMBOTNE LAW FIRM

Action: Authorized *the City Manager to Execute an Amendment to Agreement with the Strombotne Law Firm.*

3. SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF DOWNEY, BRAND, SEYMOUR AND ROHWER, LLP

Action: Authorized *the City Manager to Execute a Second Amendment to Agreement with the Law Firm of Downey, Brand, Seymour & Rohwer, LLP.*

5. APPROVAL OF PURCHASE ORDER FOR SYSTEMS FURNITURE REORGANIZATION – PUBLIC WORKS OFFICE EXPANSION PROJECT

Action: Authorized *the City Manager to Execute a Purchase Order with Office Products and Interiors (OPI) in the Amount of \$67,024.35 for the Reorganization of Systems Furniture and Partitions at the Public Works Administrative Offices.*

7. **ACCEPTANCE OF SIDEWALK, CURB & GUTTER REMOVAL AND REPLACEMENT, PHASE I 2002-2003 PROJECT**

Action: 1) **Accepted** as Complete the Sidewalk, Curb & Gutter Removal and Replacement, Phase I 2002-2003 Project in the Final Amount of \$36,292; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

8. **AWARD OF CONTRACT FOR SIDEWALK, CURB & GUTTER REMOVAL AND REPLACEMENT, PHASE II 2002-2003 PROJECT**

Action: 1) **Awarded** Contract to Monterey Peninsula Engineering, Inc. for the Construction of the Sidewalk, Curb and Gutter Removal and Replacement 2002-2003 Phase II Project in the Amount of \$58,000; and 2) **Authorized** Expenditure of Construction Contingency Funds Not to Exceed \$5,800.

9. **COUNTYWIDE AB 939 IMPLEMENTATION FEE AGREEMENT**

Action: **Directed** Staff to Execute Agreement with the County of Santa Clara.

10. **RESOLUTION AMENDING CITY'S CONFLICT OF INTEREST CODE REPORTING CATEGORIES**

Action: **Adopted** Resolution No. 5761, Amending the List of Positions Subject to the City's Conflict of Interest Code.

11. **ADOPT ORDINANCE NO. 1620, NEW SERIES**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1620, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A DEVELOPMENT PLAN AND DEVELOPMENT GUIDELINES FOR A 3 LOT COMMERCIAL DEVELOPMENT ON A 3.88-ACRE PLANNED UNIT DEVELOPMENT LOCATED ON THE NORTH SIDE OF EAST DUNNE AVENUE BETWEEN CONDIT ROAD AND MURPHY AVENUE (APNS 728-17-16, 17 & 23).

12. **SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 21, 2003, CLOSED SESSION ITEM - AUDUBON SOCIETY**

Action: **Approved** the Minutes as written.

13. **SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 21, 2003, CLOSED SESSION ITEM - EMPLOYEE PERFORMANCE EVALUATION**

Action: **Approved** the Minutes as written.

14. **SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 23, 2003, CLOSED SESSION**

Action: **Approved** the Minutes as written.

4. APPROVAL OF LEASE OF PERCHLORATE REMOVAL PLANT TO BE INSTALLED AT THE TENNANT WELL SITE

Mayor Kennedy indicated that he would like to defer this item to later in the meeting. He stated that the Council needs to discuss some legal matters in closed session.

6. REJECTION OF BIDS FOR CONSTRUCTION OF THE MONTEREY ROAD/UNION PACIFIC RAILROAD (UPRR) UNDERCROSSING PEDESTRIAN AND BIKEWAY IMPROVEMENT PROJECT

Council Member Sellers noted that the recommendation for this item is to reject the bids for the construction of the under crossing on Monterey Road. He said that it was interesting to see that the low bid was 31% above the engineering cost estimate. He felt that the amount to be excessive and wanted to know how the engineer's cost estimate was this far off, particularly in today's environment.

Director of Public Works Ashcraft said that a lot of northern California construction bids are coming in higher than expected in this declining economy. He said that contractors are hungry for work, as can be seen by the number of bids received, but that all bids were substantially high. He could not explain why other bids in the area came in high. He said that after the bids were opened, staff called several of the contractors. The contractors confirmed that the particular type of facing on the concrete retaining wall was spect as being one of the most expensive materials. He felt that this material added \$30,000 to the cost. He said that the \$30,000 can be eliminated by having essentially the same look to the face of the concrete using a different type of material. Staff is recommending that the Council reject the bids and that staff will revise the plans and specs, specifying a different type of material for the facing as well as doing a couple of other things that would get the project back within budget. He noted that the lowest bid was 30% higher than the engineering cost estimate. He indicated that this was a unique project and that more than half of it in retaining wall. He stated that staff will be rebidding this project as early as next week, with Council awarding the bid on July 15 and that construction would start by August 2003.

Council Member Sellers stated that he was anxious to get this project underway. If the bid was this far off, it would make sense to reject the bid. He requested that staff try to figure out a way to avoid bids being this far off in the future.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Rejected** the Bids Received on April 22, 2003 for the Construction of the Monterey Road/UPRR Undercrossing Pedestrian and Bikeway Improvement Project.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the Council/Agency, on a 4-0 vote with Council/Agency Member Tate Absent, **Approved** Consent Calendar Items 15 and 16, as follows:*

15. JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR MAY 21, 2003

Action: **Approved** the Minutes as written.

16. JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR MAY 23, 2003

Action: **Approved** the Minutes as written.

Mayor Kennedy indicated that there has been a request to move up Item 20 at this time. He recommended that the Council consider this item before the public hearing items.

OTHER BUSINESS:

20. REQUEST TO ADOPT THE CIVIC CENTER PARK BY THE LEADERSHIP MORGAN HILL 2003 CLASS

Mayor Pro Tempore Chang indicated that she would be stepping down from discussion of this item as she is a member of the Leadership Morgan Hill 2003 Class.

Mayor Kennedy invited the Leadership Morgan Hill 2003 Class to make their presentation.

Marlon Spenser presented a power point presentation and requested that the Council approve the Leadership Class request to adopt, renovate and beautify the park area between the Library and City Hall. The power point presentation detailed a budget, fundraising campaign, beautification proposal, and timeline that shows that the project would be completed by September 2003.

Mayor Kennedy stated that it has been suggested that a plaque or a memorial for community leaders, such as Ken Tugos, be incorporated within the project as this would allow deceased leaders of the community to be recognized/acknowledged. This could be in a form of a perpetual plaque. He inquired whether it would be feasible to include this as part of the Leadership's class project.

Mr. Spencer responded that it was his belief that a memorial plaque could be incorporated in the "Leadership Park" project.

Council Member Sellers said that he had the opportunity to meet with a couple of the Leadership Class members at a community event. One of the things discussed was making sure that the good work to be undertaken by the Leadership Class is not undone by future plans that include a new library on the adjacent site. He wanted to make sure that the Leadership Class had the opportunity to review the Library plans and coordinate this project with that of the Library project. He noted that it was indicated that funding for the project has been identified and inquired whether the Leadership Class anticipates requesting any public funds in the future as it sounds as though this project is self sufficient.

Mr. Spencer informed the Council that the Leadership Class has implemented a “Buck an Inch” fundraising program. If it comes to the point where the Leadership Class may require additional funding, the Class will strategize the need at that time. He indicated that the Leadership Class may return to the Council at a later date to request Council assistance with funding for the project. He stated that by undertaking this project, the Leadership Class knew in advance that the City would be receiving funds based on a State Library Grant program. The Leadership Class understands that the project may be impacted by the new Library project and have agreed to incorporate portions of the park elements within the new design of the Library, keeping a portion of the Leadership Park a part of the new library scheme.

No further comments were offered.

Action: *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council, on a 3-0- vote with Mayor Pro Tempore Chang abstaining and Council Member Tate absent, **Approved** the Request from Leadership Morgan Hill 2003 Class to Adopt the Civic Center Park as the “Leadership Park” Project.*

City Council Action

PUBLIC HEARINGS:

17. DEVELOPMENT AGREEMENT – DA-03-03: HALE-GARCIA

Director of Community Development Bischoff presented the staff report, noting that the report suggests that the application be continued to August 20, 2003. Since the report was written, staff has figured out a way to expedite the Measure P appeal process. Therefore, staff recommends that this item be continued to July 16, 2003.

Council Member Sellers felt that the Council had provided direction to the Planning Commission. He inquired whether the applications would return to the Council.

Mr. Bischoff responded that the only circumstances under which the appeals would not return to the Council is if in going to the Planning Commission, the Commission altered its decision to the

point that the appellant no longer requests an appeal. Otherwise, it would return to the Council for further review.

Mayor Kennedy opened the public hearing. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 with Council Member Tate absent, **Continued** the public hearing to July 16, 2003.*

18. 2003 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT AND PUBLIC HEARING

Assistant to the City Manager Dile presented the staff report.

Council Member Carr noted that the brush list appears to be significantly shorter than the ones previously seen.

Assistant to the City Manager Dile indicated that this list is a brush list of properties that have identifiable problems. The final report to the Council will have the combined lists for brush and hazardous weed abatement and will be a much longer list.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Accepted** 2003 Hazardous Brush Program Commencement Report.*

19. ZONING AMENDMENT APPLICATION, ZAA-98-16: CONDIT-HORIZON LAND (THE FORD STORE)

Mayor Kennedy stated that in the interest of expediency and due to the number of members in the community in attendance to address this item, he requested that speaker cards be shared or that citizens appoint a designated spokesperson who would be given a little more time to address the issue in order to keep the process moving.

Planning Manager Rowe presented the staff report and identified the proposed amendments to the PUD. He referred the Council to item 65 (page 189) of the PUD Guidelines that prohibits dead end drive aisles. He stated that this needs to be stricken from item 65. He addressed the issues discussed and mitigation measures proposed to mitigate the concerns expressed by the Planning Commission at the May 13 and May 27 meetings [e.g., potential for lighting glare (photometric study to be conducted to minimize lighting on site and night time glaring effects typical for auto dealerships. Study to be undertaken by the City to make sure that an impartial analysis is

conducted); noise from the public address systems (no public address system will be allowed); hazardous materials associated with storage/use with automotive repair activities (city codes and fire requirements address public containment and storage of any materials to ensure that there would be no impacts associated with them); truck deliveries of vehicles during times that would compete with peak times for commute traffic (deliveries to be limited to the hours between 9 a.m. and 4 p.m.; loading and unloading to occur on site); 15 gallon sized shrubs to be introduced in the initial landscape plan in areas along the freeway and the Condit Road frontage to provide an immediate screening affect]. He indicated that public comment letters received between the time the agenda was sent out and this evening's meeting have been distributed to the Council and can be found on the dias. Staff recommended approval of a mitigated negative declaration and introduction of the zoning ordinance to amend the PUD.

Council Member Sellers inquired as to the initial height of the large, 15-gallon specimen shrubs.

Mr. Rowe indicated that he could not identify the height difference between a 5-gallon and a 15-gallon shrub. He said that the City has not imposed a requirement in the past for shrubs to be initially 15-gallons. He said that the Planning Commission left the landscape details open for the Architectural Review Board (ARB) to carry out as they have a landscape architect on the Board.

Council Member Sellers inquired as to the mitigation measure(s) for lighting.

Mr. Rowe said that the mitigation would ensure that lighting is providing only where necessary. He noted that the freeway portion of the site is devoted to new car sales, opposite from the residential area. He said that appropriate lighting would be required and that on the Condit Road side, the lighting could be less intrusive and more immediate so that there are fewer impacts to the adjacent residential project/neighbors to the east.

Mayor Kennedy referred to the bottom of page 167 that talks about the applicant's proposed changes. He inquired whether the changes were made after the proposed PUD amendments went through the Planning Commission and ARB.

Mr. Rowe responded that the changes before the Council were presented to the Planning Commission. He said that some of the changes presented to the Planning Commission were as a result of the items having gone before the ARB under preliminary review. He said that four of the changes before the Council were as a result of recommendations by the Planning Commission and three were as a result of the recommendations from the ARB. He stated that the balance of the amendments were recommended by the applicant to achieve some of the design and project objectives. In response to Council Member Carr's question, he indicated that customer and employee parking are proposed to be retained entirely on site.

Mayor Pro Tempore Chang referred to Section 11 pertaining to landscaping. She noted that the original PUD talks about all the landscape areas having a minimum width of 10 feet. She inquired why it is being recommended that this width be changed.

Mr. Rowe responded that the amendment to the landscape requirements comes from the applicant. He said that the 10-foot landscaping requirement is to ensure that the hard surface/paved areas are contained in landscaping to provide shading in the parking lot areas. He said that most of the parking on site is not intended for customer parking. Finger island planters are proposed in the customer parking areas. However, the areas devoted to non customer related activities are more of an open parking area. He noted that the requested exception is not less than the landscape width standard outside of PUDs which is a 5 foot interior dimension. The applicant has requested the exception to provide for the maximum utility of the site and to minimize the areas that would have trees over new cars (sales display area versus customer parking areas). He noted that the City made this similar type of exceptions with the Chevrolet dealership.

Mayor Pro Tempore Chang inquired as to the guidelines requiring landscape screening to be maintained.

Mr. Rowe stated that each PUD has a precise plan that defines the uses and also have adopted guidelines that spells out the specifics of the site. He said that the Council could include in the PUD guidelines the maintenance of a certain landscape height to provide for an effective screening. The Council could include in the guidelines that crown pruning of the trees would not be permitted and that the user needs to allow for the canopy of trees to extend as they otherwise would. If incorporated into the landscape requirements of the PUD, it would be enforceable.

Mayor Kennedy indicated that he has 22 speaker cards. Because there were so many individuals wishing to address this item, he would limit the time to 2 minutes per speaker. He stated that Bruce Tichinin has spoken to him earlier about the possibility of speaking for several individuals.

Mayor Kennedy opened the public hearing.

Bruce Tichinin submitted a letter to the Council and incorporated his remarks by reference to the letter. He indicated that he is the attorney representing Bob Lynch Ford, Lincoln, and Mercury in Gilroy. His services have been retained by Scott Lynch not because they want to deprive the applicant of a profit but because he fears that the market for which they will both draw from is not large enough to support two dealerships. One of the dealership will go dark and will be locked in a struggle for survival should the Council approve this proposal. He emphasized the fact that exceptions have been granted where they were not justified under the requirements of the City's ordinance for other PUDs, and that this was not an adequate grounds to justify an exception in this case. He did not believe that violations of the ordinance establish a legitimate precedent for further violations to the ordinances. The fact that certain exceptions would be consistent with the way businesses are done by dealerships are not grounds for granting variances as cited in the case contained in his letter to the Council. These should be approached legally by creating amendments to the city-wide PUD ordinance for this type of use. In terms of the feasibility of the "no driving on local roads" mitigation measure, he referred the Council to exhibit 3, a rendering of the Walgreen's store that he helped get approved by the Council some time ago. The Council was clear on how it

wanted the store to look. However, if you take a look at the Walgreen's building/site, it does not look anything like the rendering approved by the Council. It was his belief that the City's mitigation measure that prohibits driving in local residential areas will be unenforceable. For this reason, he felt that there was evidence that this adverse impact on the environment will continue for this project. Therefore, the Council should prepare an environmental impact report (EIR) as he felt that the mitigated Negative Declaration was insufficient. He felt that the proposal suggests that the City should sacrifice the long term quality of life for the short term realization of tax revenues. He did not believe that this was a good policy. It was his hope that the Council would not be swayed by staff support for this proposal.

Scott Lynch, president of Bob Lynch Ford, Lincoln, Mercury in Gilroy, stated that having served as the president of the Gilroy Chamber of Commerce and as a financial partner to the Gilroy Economic Development Corporation, he understands the need for economic vitality within a community and the benefits that it can afford to its citizens. He applauded Morgan Hill and Gilroy for its aggressive, yet thoughtful pursuit of businesses that mesh well with the vision that the City leaders have had for the communities. He said that it is with this that he cautions the Council. He expressed concern about direct competition from another Ford dealership because he did not believe that the two communities could support two Ford dealerships' profitability. As a board member and president of the South Valley Hospital Foundation, he observed the difficulties that the Hospital had in providing health care in a non profit environment. He has heard rumors of the difficulties that Morgan Hill's St. Louise Hospital experienced. He noted that today, one of these two facilities remains vacant. He acknowledged that there were two Chevrolet dealerships between the two communities. However, South County Chevrolet focuses on car and truck sales, while Marx Chevrolet focuses on commercial truck sales. This niche strategy is not possible for either Bob Lynch Ford or the proposed Ford dealership in Morgan Hill. He did not believe that the short term benefits of the sales tax revenues would outweigh the negative impacts to the neighbors or the risk of failure. With regards to the application before the Council, he felt that too much emphasis is being placed on highway visibility as a requirement for success. He noted that the applicant has selected a highway adjacent location and is requesting exceptions to the PUD that enhances their visibility. He suggested that such an exception is not necessary to ensure their success. He noted that his auto dealership has not enjoyed highway visibility. As someone who is proud of the community that he serves, he encouraged the Council to consider a different strategy for Morgan Hill, one that compliments the demographics of the community and better matches the buying patterns of the Council's constituents. He further suggested that the Council continue its quest for auto dealerships and focus on bringing in franchises that compliment what is already in Gilroy. These franchises should be located in a campus like setting that is harmonious with the atmosphere that is already established in Morgan Hill, away from residential areas of the City. He submitted his written statement as part of the official record.

Karen Bainbridge, 1515 Kelley Park Circle, did not believe that the Ford Store belongs in the Condit PUD. She felt that the City has been working to meet the needs of Morgan Hill as well as the Ford dealership. However, there were too many gaps. The PUD amendments declare that test drives cannot be conducted on Murphy Avenue. She indicated that there was nothing that would

explain how this would be enforced or the penalty for not complying. The amendment declares that the Ford dealership cannot use loud speakers. However, the lighting requirements are much less restricted than the normal PUD requirements. She noted that the Ford dealership requires many exceptions to the PUD requirements. Therefore, it is not a good fit for the intended use of the land. The Highway Commercial zoning includes the use of automobile sales and service. She did not believe that the City should bend the rules for the Ford dealership and that the Ford dealership should be made to comply with the PUD requirements. She understood that the City is strapped under these economic times. She requested that the Council not think short term and reject the zoning amendment application. She referred to Chapter 18.26.040c Highway Commercial that states all uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or offensive conditions or characteristics.

Bob Burkhardt, 1375 James Court, indicated that he attended the Planning Commission meeting and discussed the mitigation plans for noise, noting that it is already too high in the area. He felt that the mitigation plan for traffic through the neighbourhood is to have the community police this activity. It was also indicated that the dealer would use the freeway. He has found that this is not the case where dealerships are located in residential areas. He noted that the City has not decided what will be happening with Murphy Avenue and Condit Road. He felt that the only mitigation measure that can be applied to traffic is to do something similar to what was done at Campbell. The City could leave Murphy as a two lane road and install speed bumps, traffic circles or other traffic mitigation measures similar to what was done in Campbell. He said that with 19 businesses going into a two block area, including a swim center with a negative \$1 million cash flow each year, are not the uses that were planned for Morgan Hill. Approval of the PUD amendment would allow 7 exceptions. He requested that the City perform a cumulative impact report for all 19 businesses that are occurring in a two block area between Murphy and Condit, adjacent to Dunne Avenue, in order to understand what will be happening with a 14 unit strip mall, the Harley Davidson, the miniature golf and all other businesses to be located in a one small area.

Nilou Tarani, 1585 Kelley Circle, yielded her time to Mark Lawson

Michael Lawson, 1385 Kelly Circle, requested clarification as to the reason there were seven exceptions last week before the Planning Commission and only six exceptions this week. He stated that he attended the Planning Commission meeting in order to have them understand the residents' points of view in terms of safety with the schools, residential, and park areas. Residents are concerned about the test drives and the users being unfamiliar with the vehicles that are being test driven and possible driver error. He said that it is not enforceable or legal to prohibit use of residential streets to test drive vehicles as the roads belong to the public. He indicated that Mr. Toy was quoted as stating that it would be great if there were three or four more car dealerships. If approved, they would more than likely be sited in the Condit Road area as auto dealerships like to locate together. He requested that the Council take into account the cumulative affect of 5 dealerships to the local residents as they relate to noise, chemical and light pollution. He requested that another site review hearing be held. He stated that he measured a distance of .2 miles south of Cochrane on St. Louise Drive to a flat area that can accommodate an auto row that would not

impact residents and would suffice the visibility requirements that car dealerships want. The Cochrane/St. Louise area would allow businesses to compliment other businesses and not impact residential areas. The residents agree that the Planning Commission's job is to serve the City's best interest but that it is also their duty to serve the residents' interest as well. He did not believe that the Planning Commission has fulfilled the second part. He requested that the Council not approve the requested PUD amendment.

Sam Huerto, 1575 Kelley Road, also yielded his time to Mr. Lawson

Sharon Miller, 1205 Kelly Park Circle, stated that she grew up in Morgan Hill, went off to college and returned to purchase a home in Morgan Hill. She said that when she bought her home in Kelly Park, she was careful in looking into the zoning before she purchased her home. She understood that the lot across the street from her was zoned residential. She was concerned about the freeway noise, indicating that this was a very difficult purchase to make in terms of noise. She stated that she finds the possible rezoning disturbing. She expressed concern about the safety of the neighbourhood and traffic on Murphy Avenue. She requested that the Council take a look at the safety of the neighborhood.

Marby Lee, 960 Oak Park Drive, felt that the auto dealership was wrong for Morgan Hill. She requested that the Council put all its efforts into bringing businesses that are needed into town that residents would patronize instead of a car dealership. She stated that individuals that she knows drive to San Jose and beyond to do their shopping. She requested that the Council not disregard the safety issues raised and the other reasons why this use is wrong for Morgan Hill.

Mayor Kennedy indicated that there was a question raised about limiting public comment. He requested that the City Attorney respond to the question.

City Manager Leichter said that Sherry Purser requested that the City explain how the law allows a governmental body to hold a public hearing and not allow time for everyone who wishes to speak about the topic. It was asked whether the City could limit the number of public comments. She responded that the law generally requires that a public hearing be held and that individuals be allowed to speak. The law also allows the public agency to set rules on the public hearing so that the hearings do not extend over the course of time. Some agencies have a one minute rule. Morgan Hill is fairly lenient in the amount of time the public is allowed to speak, indicating that it has been a long time since the City has had a large number in attendance. The law allows agencies to request that citizens not duplicate responses.

Sherry Purser stated that she felt that a public hearing was for the purpose of listening to all public comments. She said that she has never heard of a city limiting a public hearing to a certain number of individuals.

City Attorney Leichter clarified that the Mayor did not limit the number of comments. He specifically requested speaker cards be submitted so that the Council can get an idea as to the time necessary to conduct the public hearing.

Mayor Kennedy indicated that on the onset of the public hearing for this item, he requested that individuals combine comments in the interest of saving time. He did not state that anyone would be denied the opportunity to speak. He stated that he gave the public plenty of time to submit speaker cards and that he stopped accepting speaker cards after a certain point as this would open the door to continuous rebuttals.

Mayor Pro Tempore Chang recommended that individuals be allowed to submit speaker cards at this time.

Council Member Sellers said that it appears as though there may have been several individuals who were not in attendance when the submittal of speaker cards were requested. He felt that it might make sense to give those individuals who were not present earlier the opportunity to submit speaker cards at this time.

Mat Fairband, 2015 Blue Bonnet Court, stated that he wants to work with everyone in keeping an open mind. He said that a swim facility or a mini golf park set a certain precedent for what the residential neighborhood wants to see when they drive home. He felt that family-oriented recreational facilities are a far cry from glaring signage and a commercialized appearance of an auto dealership. He likes to drive cars but that he does not care to drive past a Ford dealership on his way home. He understands the importance of running the business of Morgan Hill. He recommended that the City never gets caught up in the finances of business that it forgets why citizens moved to Morgan Hill. He said that residents look toward the Council for careful guidance on the community's growth and that residents pay incredible premiums for a lifestyle that can be attained in a number of other commercialized communities. Morgan Hill has resisted some of the growth that has taken over Gilroy and felt that Morgan Hill is at a crossroad. It was his belief that the Council's decision tonight might affect his family's long term plans where it chooses to live.

William Williams, 1395 Kelly Park Circle, stated that one of his major concerns is that of traffic accidents and the safety of his child and other children attending Nordstrom School. He has seen car racing taking place on Murphy Avenue. He expressed concern with the devaluation of home prices. He stated his opposition to the auto dealership use.

Rose Huerta, 1575 Kelley Park Circle, said that Dunne Avenue is the main thoroughfare through town and the hill and that the City is packing several uses in the area. She noted that Tennant Avenue has not been developed and that Cochrane is being developed as industrial. She stated that the City's noise contour map for the general plan dictates a 65 noise decibels in a residential neighborhood. She noted that Nordstrom Park will be the only park in the City with two, four lane roads along its side. She also noted that soccer games take place in the vicinity and that there are several cars lined up. There are functions at the schools where parents park along Kelly Park and

the street. Now, the City is proposing to install four lanes and have all this extra traffic, possibly injuring a child.

Leigh Lawson, 1380 James Court, a recent Live Oak High School graduate, stated that her friends would test drive cars from the Chevrolet dealership. They did so to see how fast cars can go and drive recklessly. Her family moved to Morgan Hill from south San Jose in order for the children to live in a safe neighborhood. She noted that children walk home everyday from school during peak hours. She did not believe that allowing heavy traffic in this area was appropriate. She stated her opposition to the construction of an auto dealership.

Lisa Canoy, 1475 Kelley Park Circle, stated that she moved to Morgan Hill 8 months ago from the Evergreen area, adjacent to large commercial area that generated a lot of vehicle generation and noise. When her family started looking for a home, she wanted to move to an area that was beautiful, safe, and call home. She does not want to have to move again because it is unsafe. Approval of the use would devalue the property values and would pose a traffic safety problem. When she moved to Morgan Hill, she was told that Morgan Hill was a city that had beautification in mind; a country town that was still close enough to city-wonderful things. By approving a Ford dealership and the other businesses, the Council will just reduce the values of what Morgan Hill is all about and why people move here. She does not want to see the devaluation of people over big bucks.

Debra Chappell, 1355 James Court, indicated that as development occurred her family could no longer see the stars very well as the City keeps building and adding lights in the area. She chose to live in Morgan Hill because she saw it as a baby Los Gatos/Saratoga and that it was her belief that it would continue in this path. When she moved away from the Santa Teresa area to come to Morgan Hill, she was not looking for the same thing nor was she planning to have her home devalued. She stated that she has been before the Council 3 or 4 times requesting that the Council not enlarge the street only to allow teenagers speed on the streets. It does not matter how much screening is required, she does not want to see an auto dealership as this is a residential area. She felt that there were several other locations to locate an auto dealership that are non-residential. She did not understand why the City approved large family homes in this location only to devalue them.

Teresa Lawson, 1385 James Court, read from a prepared statement in opposition to the Ford dealership at Condit and Highway 101. She did not like the thought of living by an auto dealership with light and noise pollution and increased traffic in the area, including test drives through the residential streets. She indicated that the Morgan Hill Times mentions a traffic study that predicts that the dealership would significantly increase traffic at the unsignalized Murphy/East Dunne intersection, bordering an elementary school and City park. She felt that this was a safety issue for families and children. She inquired whether there were more dealerships planned for the area, noting that the Pinnacles mentions that Mr. Toy would like to see 3 or 4 more dealerships in the area. She stated that she did not move to Morgan Hill 13 years ago to live by an auto row. She moved to Morgan Hill for the rural, small town atmosphere. She commutes to San Jose in order to live in this peaceful, quite area. She inquired why she would want to live adjacent to a business

that would produce heavy traffic and noise when she moved to Morgan Hill to escape the traffic and crowds of San Jose. She did not want to live by a sea of cars lining the freeway. She has her doubts that test drives can be stopped in the residential neighborhoods. She expressed concern that there was a lot of discussion about the Applebee's and In and Out Burgers in the gateway to the community and the city's gateway image. Yet, she did not see the same amount of concern regarding the development of businesses in residential areas. She stated that this is a residential neighborhood's quality of life and that residents do not want a car dealership in it.

Charlotta Gigliotti, 16925 Pepper Tree Drive, said that she has lived in Morgan Hill since 1984. She said that Morgan Hill is not the place she used to know and love. She noted that there are many fast food establishments in Morgan Hill and only three exits. She stated that she goes to San Jose to spend money because Morgan Hill does not have the businesses that people want to spend their tax dollars on. She felt that Morgan Hill is losing its image and that it is becoming the junky place to locate a business.

Matt Lawson, 1385 James Court, said that recently, he and his dad recently improved the quality of their home by making improvements to increase the property value. If an auto row is allowed to proceed on Condit, the home value would decline and this would result in doing all of the home improvements for nothing. The equity of the family home would be applied toward his college expenses and inheritance. He recommended that the auto dealership be located in a less populated, commercial area.

Mark Sparacino, 1450 Seville Drive, Sonora Ranch resident, stated that he last appeared before the Council approximately 3 years ago when the Planning Commission decided to change the master plan for the Dunne Avenue/Condit Road area that would align the street with strip malls and hotels. He spoke in opposition at that time to no avail. The economy has since intervened and the City has not been able to build out the hotels. He said that the argument in both cases was that the City has to capture the revenue dollars being lost to Gilroy. If you look at Gilroy, the outlets are concentrated on the northeast side of the freeway and that the new retail outlets and restaurants are going into the southeast side. The auto shops are being congregated in a cul de sac on the west side of the freeway. New homes are being built a distance to the northwest and west of Gilroy. Therefore, there is no impact to residential areas. He felt that the planning process in Morgan Hill seems to be that the property owner is selling parcels of land to the first potential buyer, requesting variances to master plan to make the sales deal go through. This results in a crazy patchwork design that is being seen today. He did not believe that the building compliments other uses in the environment. He requested that the Council look out for the residential areas, protecting the quality of life and keeping neighborhoods quiet and safe for children and residents.

Sherry Purser, 16175 Jackson Oaks Drive, stated that she would like to welcome businesses to Morgan Hill because the City needs the tax revenues in appropriate locations. She felt that this location was inappropriate, noting that soccer fields, an elementary school, and a future swim center are located nearby. Now, the Council is proposing to add individuals to test drive cars to which they are unfamiliar with. She felt that safety is paramount. The Council was elected by the

citizens to take care of planning the community. She indicated that the citizens appreciate all the work that is done by the Council and requested that it look at the safety and the future of the community.

Phillip Symens, 12295 Kelly Park Circle, stated that he has lived in Morgan Hill for over 18 years. He said that the location of the auto mall in Gilroy is different from the location being discussed for this Ford dealership. Individuals can test drive automobiles in Gilroy in a commercial area and in a very safe manner. He said that he and Kelly Park residents have been concerned about traffic on Murphy Avenue. He felt that this use would add to the traffic concern. He likes seeing businesses come into Morgan Hill as it is good for the economy, but that on the other hand, this does not seem like the right place for this type of business.

Bruce Haller, 17610 John Telfer Drive, stated his support of a car dealership as a resident of Morgan Hill for 15 years. He said that the City has had a real problem by saying no to a lot of different companies, businesses and development. He felt that the City was getting to a point where it is running out of choices for tax basis. The City/community will need to come up with some way to support the police, fire, and recreation department. The City needs to find a way to fulfil the needs of city services as well as the needs of the tax payers. He felt that the auto dealership could be a good source of revenue, acknowledging that there are some issues. He noted that the site has been designated commercial for the past 15 years.

Vince Burgos, Development Process Consultants, indicated that he was in attendance representing the Ford dealership. He said that the applicant has put a lot of time into this project, working closely with staff. He stated that he was the architect for the original PUD, assembling five PUDs in the City. He said that these PUDs exist at each gateway into the City and that each has an underlying zoning. This one has an HC, Highway Commercial underlying zoning and that the use confirms to the zoning. He stated that the application has been through preliminary review. He has worked with the ARB and staff, incorporating adjustments as recommended. He has heard comments come back from the Planning Commission, indicating that the project proponents have tried to address these issues. He stated that any PUD in the City would require the recommended changes for a similar dealership use.

John Telfer, 17045 Monterey Road, stated that it was his opinion that there were some broader issues here that benefits the entire community and not just a particular neighborhood. He indicated that he is a fourth generation Morgan Hill resident. He stated that the City has always had a goal of attracting high sales tax generating businesses to Morgan Hill. At the top of the list has been auto uses. The question that keeps being asked is whether this is the right location. He said that this property has been zoned highway commercial for the past 15-20 years. He noted that there is an open field zoned high density residential located between this parcel and Murphy Avenue. In 1997, the City completed a PUD that included all permitted uses in the highway commercial district, noting that an auto use is a permitted use in the existing, approved PUD. He indicated that the City commissioned a study in the fall 2002 to look at different alternative sites in Morgan Hill. He stated that there are logical, good reasons why the alternative sites do not work, noting that this was

chosen as the number one site. He said that auto dealerships, as hotels, are win win situations for cities in that they do not generate a large amount of traffic, especially when you look at the use relative to their sales tax revenue that is brought into the City.

No further comments being offered, the public hearing was closed.

Mr. Rowe referred to page 199 of the agenda packet. He stated that the staff report indicates that the resolution was expanded to include six findings. He said that seven exceptions were originally requested. However, one of the exceptions was eliminated because it was identified that the project complies with the requirements of providing the minimum 15% landscaping in all parking areas. As currently proposed, 19.9% of all parking areas are proposed to be landscaped. As landscaping exceeds the 15%, there was not a need to include this exception, reducing the exceptions from seven to six. He noted that this is a vacant piece of property that abuts against the freeway just at the point where the on ramp inters into travel lanes of Highway 101, immediately to the south is the Holiday Inn Express. Between the site and the residential neighborhood is an intervening area of land between Murphy and Condit that is general planned residential (R-2) occurring between commercial and the residential neighborhood on the east.

Mayor Pro Tempore Chang said that it was her understanding that the Ford dealership had other sites offered to them and that there was a second preference site selected.

Mr. Rowe and City Manager Tewes responded that they have no first hand knowledge of a second alternative site. City Manager Tewes indicated that the Council may need to ask this question of the applicant.

Mayor Pro Tempore Chang indicated that at the last meeting, Mr. Toy indicated that staff offered another site to the Ford dealership. It was her belief that Ford representatives looked at the second site and found it to be an acceptable site as well.

Council Member Carr requested that staff address the lighting issue and how the City can approve the zoning amendment request contingent upon the results of a study.

Mr. Rowe said that the environmental initial study discussed the need to provide shielding of the lighting so that it is directed downward to minimize affects of light or glare. He indicated that the Planning Commission did not believe that this, in itself, would be sufficient. Staff recommended that a photometric study be conducted. The Planning Commission wanted to ensure that the objectives of the study were carried out and recommended that the City conducts the study versus relying on the applicant. He said that one of the things expressed as an objective is that the auto dealership not be lit up like the Chevrolet dealership. It is being recommended that the intensity of lighting be reduced to the greatest extent possible, especially looking toward the westerly portion of the site so that the light intrusion that might happen toward the residents that spoke would not occur, or is kept to a minimum. As this is an auto dealership, there is a need to have adequate lighting to illuminate the vehicles that are to be sold, especially in the winter months. He said that it

would be obvious that there will be an auto dealership in the area. On the other hand, it was the consensus of the Planning Commission that a number of requirements be incorporated in the approval in order to minimize impacts. Staff wanted to learn what it could from the Chevrolet dealership and come up with a lighting plan to reduce lighting further. He indicated that the study would include recommendations on how the lighting plan should be developed and the type of lighting to be used. He noted that there is existing language in the PUD which applies city wide that allows the City to assess the lighting impacts and require changes to the existing lighting scheme to mitigate or reduce lighting impacts, even after approval.

Council Member Carr noted that a lot of testimony was received expressing safety concerns with the test driving of vehicles. He inquired how the City would enforce where test drives are to occur.

Mr. Rowe said that staff contracted with a traffic/engineering consulting firm to perform a complete traffic study for the site. He said that there is a threshold that staff normally applies when it feels that there are enough traffic trips to warrant a traffic study. He said that the industry standards for an auto dealership would generate a maximum of 84 vehicle trips in the p.m. peak hours. Even though the use was less than the threshold required for a traffic study, the City proceeded with a complete traffic study. Regarding the distribution of assignments, he said that the traffic report looked at the percentage of traffic that would be coming to and from the site. As far as traffic to and from the site from Murphy Avenue, the report states that there would be no additional vehicle trips to Murphy Avenue as a result of the use.

Council Member Carr inquired how the City would propose to enforce the limits on test drives.

City Attorney Leichter said that if the enforcement of limiting test drives is adopted as part of the PUD guidelines, then there is an enforcement mechanism in place should the guidelines be violated. The mechanism would be to rescind the notice of approval. In terms of enforcement, this would be a normal police activity for speeding. She said that there is an administrative remedy in terms of the City's ability to rescind the approval(s) if the guidelines are violated.

Mayor Pro Tempore Chang said that she recollected that the Council voted to allow 4-5 auto dealerships to develop in the area. She stated that the City is in the process of trying to annex lands so that the area will be able to develop as an auto dealership. Should the Council decide to move forward with an auto dealership development of 4-5 auto dealerships, she inquired why the City is moving forward with a negative declaration and not conducting an environmental impact report the full 40-acres.

Mr. Rowe responded that the property to the north being referred to by Mayor Pro Tempore Chang is proceeding before LAFCO under the present general plan designation of campus industrial. Any decision to be made at some future date to amend the land use plan to a commercial designation would require an environmental review prior to Council taking action. In which case, the impacts of the decision would have to be evaluated. To look at the environmental impacts in advance of this would be considered speculative even though there has been discussion at the Council level to look

at an area that is general planned and designated as campus industrial. He said that environmental review would occur in due course and prior to any decisions to change the area from an industrial designation.

Mayor Pro Tempore Chang stated that she has reviewed the Council minutes where a council member recommended designating the area for auto dealerships. She requested the opportunity to review a copy of the minutes that contained the discussion of the 4-5 auto dealerships.

Mayor Kennedy inquired whether Mayor Pro Tempore Chang was referring to the Council's discussion of 4-5 different sites for possible auto dealership.

City Manager Tewes noted that exhibit 1 submitted by Mr. Tichinin is the staff report that was presented to the City Council in February 2002. At that time Mr. Tichinin spoke against the auto dealership strategy that the Council adopted. Specifically, the Council indicated that it did not want to pursue an auto mall and that it did not want to pursue an auto row. There was discussion by Council Members about having only a few more car dealership and not a great concentration of them. He indicated that this strategy was adopted in February. He stated that Planning Manager Rowe spoke to the Council about the property to the north, a 20-acre proposed annexation for campus industrial.

Council Member Sellers felt that it was important that the Council is clear that the comments made by Mayor Pro Tempore Chang earlier were inaccurate and that the Council did not discuss an area for auto dealerships.

Council Member Carr said that this is a difficult issue and that it was his hope that information is not being put out that is misleading anyone. It was his hope that everyone stays to the facts and understands the issues. He noted that this property is currently general planned as commercial and that Horizon Land Company submitted an application to establish a PUD zoning in 1997. In 1999, the Council adopted the current PUD zoning to allow mixed commercial uses on the property. He noted that the property to north, up to Diana Avenue, is zoned Office Industrial and that Diana to Main Avenue is zoned industrial.

Mayor Pro Tempore Chang requested the opportunity to review the minutes of the February 2002 meeting.

Mayor Pro Tempore Chang referred to the minutes of the Redevelopment Agency/City Council meeting of February 27, 2002, specifically the motion as follows: On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the Agency Board and the City Council, on a 4-1 vote with Agency/Council Member Chang voting no, as follows: 1) approved the list of potential sites; 2) adopted an auto dealership strategy; and 3) directed staff to implement the strategy. She referred to exhibit 1, the Auto Dealership Strategy (attachment 3) that states as follows: prioritize the three key areas best suited for auto dealers in the following ranking order: 1) Dunne Avenue; 2) Tennant Avenue; and 3) Cochrane Road areas. She noted that number two states that because the

Dunne Avenue area is a primary area for automotive retail, and since a dealership has an offer pending, there was a concentrating effort in attracting this dealership to the Dunne area. She indicated that this was an action adopted by the Council/Agency. She referred the Council to page 2 of the auto dealership strategy. This section states that the City is to work with the property owners of the 19 acre site on Condit Road, mushroom farm and adjacent parcel, to annex these parcels into the city, selecting a PUD zoning; limiting the PUD use to motor vehicle sales. She indicated that everyone moves into Morgan Hill for the quality of life it has to offer and that everyone wants to enjoy the rural atmosphere, noting that the General Plan talks about the rural atmosphere as part of the City's mission statement. When the City talks about economic growth, she felt that it has to be quality economic growth, the type of economic growth that the citizens want to see for Morgan Hill. She felt that K-mart did not survive because it is not a business that Morgan Hill citizens want. The City is now changing its direction and is looking for a buck. She noted that five years ago, the City had an \$8.5 million budget and that it is now at \$16 million. The City has \$10 in reserves and that the reserves will be used to perform some of the activities that the City would like to do.

Mayor Kennedy felt that it was important that the Council has a dialogue on this issue as the City is dealing with an issue that is critical to everyone. He indicated that he resides off of East Dunne and is also concerned about traffic. He is also concerned about the City's budget. Therefore, it is important that the City takes action that will help bring in sales tax revenues to the City. He said that a lot of points have been made and a lot of questions have been raised. He recommended that each Council Member make some remarks this evening. He would then request that this item be continued. He stated that sales tax revenues are important to all cities because property taxes are no longer a reliable option for cities. He felt that the City has to look at businesses that will provide sales tax revenue, noting that auto dealerships is one of those businesses that bring in a lot of revenue to cities. This is why the Council came up with an auto dealership strategy. He indicated that businesses go where their market studies dictate would be the best locations and that it is difficult to force a business to go somewhere where they do not want to go. He said that a study was conducted in the early 1990s where the City proposed an auto mall on the north side of town, north of Cochrane Road. This study was a failure because auto dealers did not want to locate on Cochrane Road. When the Chevrolet Dealership was proposed for Morgan Hill, the City encouraged them to locate near Cochrane Road. They would not do so because the market conditions were not right and the business would not work at that location. The Chevrolet dealership insisted on locating on Dunne Avenue or they would leave the community. He felt that some individuals would say let them leave while others would inquire why the City was not supporting businesses in Morgan Hill, only to locate in Gilroy. He stated that it was the demographics and the market that dictates where businesses will locate. He felt that everyone needs to be cognizant of this fact. He appreciated the residents' concerns and understood the concerns as he drives this stretch of Dunne every day. He was convinced that this Council will want to do what is best for the entire community. The City needs to weigh its needs for police and fire services which are funded heavily by sales tax revenues. The City currently has a minimal police department and that a new contract for fire services is coming up. Although the City has been frugal in protecting its reserves, the City's expenditures are exceeding its revenues.

Therefore, the City needs to find new sources of revenue. He stated that the City has to look very seriously at any potential businesses that will bring revenue to the City and that the City needs to carefully weigh the appropriate location for them. He stated that he would take the time to consider the residents' comments and the input made this evening, recommending further discussion/action being taken at the next Council meeting.

Council Member Carr said that the Council takes citizens' comments to heart and listens to them. He was pleased that Mayor Kennedy was suggesting that action be postponed, requesting that staff look into the issues raised, especially those raised by Mr. Tichinin. He does not try to predict what his colleagues will do nor does he try to predict where he will be on a particular issue, especially when there are questions that need to be answered. The City has a general plan that took three years to adopt, and involved a good amount of the community in developing the general plan map. If a city does not have general plans or planning for the community, the city will work in a crises mode. He felt that it was important to try and follow the adopted plans. This is why it takes the Council a long time to get through issues, at times. He felt that if anything, this Council has been criticized for being a little too slow on some of its actions. He felt that it was important to take time to work through issues. He encouraged individuals who want to learn more about the auto district strategy to read the entire minutes of the meeting to learn about the debate and conversation that took place in February and the issues involved. He requested that citizens understand that simply by adopting something called "an auto district strategy" does not mean that the City has set aside 40-acres for massive number of dealerships. In reading the February 27, 2003 minutes, he felt that it was the intention of the Council that projects be reviewed as they come before the Council as well as the impacts to the community. He supported continuing this item to a future meeting so that the Council can think about this issue in a positive way for the community.

Council Member Sellers said that Council has reviewed uses very deliberately such as the In and Out Burgers. He stated that it is a consistent balance between providing what citizens need and what is desirable. He stated that he has issues that he would like to give consideration to and that he would spend time in the next few days and weeks going through these. Some issues deal with the site and with the specific dealership. He felt that this was a template and opportunity regardless of what happens with this particular site. Wherever this use or future auto dealerships might locate, the City will need to deal with lighting, landscaping, and parking issues. He indicated that he has seen dealerships that have inadequate landscaping that were not planned and signs that were too high. He stated that he did not raise the issue of flag poles and that he gets anxious when individuals use these as an opportunity to attract people to their businesses. He felt that there were quite a few related issues that need to be addressed that cannot be resolved this evening. He felt that the Council works hard, spending time as a group and individually; taking the extra time to work with each other. He felt that it was important that Council Member Tate be in attendance at the next meeting because he is a valuable member of this group and that he was anxious to hear his thoughts on this application. He agreed that Council members have their differences and disagreements. However, the Council works hard to ensure mutual respect and that this should be continued regardless on how the Council votes on this or any other issue.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, continued this item to June 18, 2003.*

City Council Action

OTHER BUSINESS:

21. AWARD PHASE 1 OF CONSTRUCTION CONTRACT FOR POOL PACKAGE – MORGAN HILL AQUATICS COMPLEX

Director of Public Works Ashcraft presented the staff report, indicating that an amended staff report was distributed this evening. He indicated that Glenn Ritter, project construction manager, and the representative from Nova Construction were in attendance to answer any questions that the Council may have. Also, the Council subcommittee may wish to voice their support of the recommended action.

Mayor Kennedy said that the Council has been using the term phase I for a lot of different purposes. He stated that at one time, phase I of the project was a distinct portion of the site that had two or three pools. Phase II was going to be a deep water diving pool. The term phase I, as used here, applies to a portion of this contract to perform shop drawings. This is a small piece of work that is estimated at \$68,000. This allows the project to continue on schedule. The next major contract will be for \$5.5 million. He felt that there is an opportunity, during this phase, for bids to come in. It is the City's hope that bids will come in below estimate and allow the City to get on track as far as the budget is concerned. It is the Council's hope that there will be more competition and the City will be able to get more aggressive bids. He stated that the City will include, in this portion of the contract, numerous alternative bid alternates. If for some reason the bids exceed the estimates, the Council will have the opportunity to cut portions of the project.

Council Member Carr noted that the action before the Council is to be able to get the shop drawings completed in order to keep the project on schedule with a minimal financial risk to the City. The Council subcommittee has asked that all of the bid alternates that the Mayor referred to be included in the shop drawings. This would allow the City to pull the bid alternates to save dollars if necessary. If the bid alternates are not included in the shop drawings at this time, the City will not have the opportunity to include them later. He felt that these were important to the economic development of the pool. He encouraged the Council to support the action this evening.

Mayor Kennedy opened the item to public comment.

Bob Burkhardt stated that he likes the idea of a swim center as his children were competitive swimmers for almost ten years. While the PUD has been reviewed in total, each individual project is reviewed and approved separately. At the last Planning Commission meeting, one Planning Commissioner indicated that the swim center would generate three times the number of left turns at

Condit and Dunne than the traffic study indicates. The Planning Commissioner indicated that instead of going through Tennant, most of the traffic would go to Dunne and make left turns, increasing the traffic flow more than the current traffic study indicates. He indicated that this is one of 19 new planned uses in this small two block area and requested that the City conduct a comprehensive review and a comprehensive environmental impact traffic study for the entire area. He expressed concern with the aquatics center and questioned whether this was the right time to have a swim center with a \$1 million negative cash flow every year in a time when the City is trying to get sales tax revenues. He inquired whether the Ford dealership would fund the swim center or some part of it. He requested that the City decide what will be done with the Condit and Murphy area and how a four lane road can be kept away from Murphy, Nordstrom School, and the surrounding housing areas. If the traffic issues can be mitigated, he felt that the number of safety concerns heard earlier this evening would go away. Having a strip mall adjacent Nordstrom Park and the other planned uses would impact the area greatly. He recommended that construction of the swim center be postponed to a time when it can be afforded.

Michael Lawson indicated that residents requested that the Planning Commission take into consideration all of the development that is taking place in the area so that the total picture of traffic safety, noise, etc., can be evaluated. He recommended that the City take a look at the whole picture before moving forward. He expressed concern that money from the Ford dealership would be used to fund the aquatics center. He felt that the City would be taking money from one place to another while generating traffic, noise and pollution. He stated that he was not opposed to the project so much that he is against the development without a better plan. He requested that the notification requirements for these kinds of approval be increased beyond the 300 foot radius as development affects residents who reside further than 300 feet. He indicated that the minutes for the Planning Commission meeting were posted within three minutes before the actual hearing. Therefore, the residents did not have the opportunity to review the document and rebut some of the claims made by staff. The residents requested a continuance and the Planning Commission denied the request. He felt that the Planning Commission needs direction from the Council that makes them liable to the public.

Gino Acevedo indicated that he was speaking on behalf of the Morgan Hill Aquatics Center Foundation. He said that everyone has spent years in the development of the aquatics center plan. The Foundations looks forward to having a nice competitive and recreational facility, filling up local hotels and providing local residents a place to compete.

No further comments were offered.

Mayor Kennedy corrected a statement made by Mr. Burkhardt. He said that the City's budget calls for subsidizing the aquatics complex in the amount of \$200,000 in the first year and that this amount decreases in the second year to \$150,000. The City is also working with the Morgan Hill Aquatics Center Foundation in order to enter into a contract where they will subsidize the operation of the center during the winter months when it is most costly to operate. It is the City's goal to reach a point where the Council keeps the annual subsidy to an absolute minimum. He felt that the

City has the capability to operate the center only during the months that are profitable, should the City so choose. He indicated that the City has conducted marketability studies on the aquatics center and that the Council has looked at all the numbers and operating costs. Therefore, Council has a good handle as to what the aquatics center's potential costs would be.

Council Member Sellers said that the Council has spent a lot of time and will be spending more time in discussing the broader issues and the development of the entire area. He stated that the Council studied this area at a time when the Council originally looked into acquiring the soccer fields. He stated that the continued input is helpful regarding this entire region. He said that the City would look into the issue of the notification requirements. He said that City has a 300 foot notification requirement and felt that the Council may want to look at modifying this legal requirement on specific issues when it makes sense to do so. He said that the City is developing this pool project as well as industrial projects and that they will come on line at the time the economy starts to recover and that this is important to keep in mind. He said that the Council determines the appropriate level of services for the community. The Council looks at projects that do not require use of city funds but that there are some projects that require some City subsidy. The Council looked at other alternatives to try to figure out how to pay for services and that the Council will continue to review options. He stated that the amount of monies that the City uses from public funds is something that the City is trying to minimize and monitor as projects get underway. He appreciated the work of the committee members in figuring out the bid alternatives that would give the City the most flexibility to make sure that the project remains within budget.

Mayor Pro Tempore Chang felt that it would be a reasonable approach to proceed with the base bid. She noted that the total bid is estimated at \$2.1 million and that the project is at \$2.6 million. Therefore, the project is 24% higher than the original cost estimate. She inquired where the money would come from should the remainder of the bids come in higher than estimated.

Mayor Kennedy said that should the bid costs come in higher than estimated, it would be proposed to eliminate various features of the complex or to attain other sources of funds (e.g., donations, fund raising, etc.). He noted that staff has identified alternatives that can be eliminated, if necessary.

Council Member Carr concurred that what has gone out to bid and has been submitted thus far, the project is 17% over the estimate. He noted that staff indicates in its memo that should the City look at the most recent cost estimate at 50% construction documents, it is only 4% at this time. He said that in the rest of the bidding to go out for the entire project there are identified bid alternates of things that can be pulled out of the project. He said that staff tried to identify items that can be pulled out as packages onto themselves so that it does not affect the overall operations of the aquatics center.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Approved** Project Plans and Specifications.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Awarded** the Contract to California Commercial Pools in the Amount of \$58,000 for Phase 1 – Pool Shop Drawing Submittals Only.*

22. BURROWING OWL HABITAT MITIGATION PLAN

Assistant to the City Manager Eulo presented the staff report, indicating that staff is not recommending approval of the plan this evening. He requested that the Council provide its comments this evening, indicating that the plan would return to the Council for approval at a later date. He indicated that when the City adopts this plan, it will be a leader in owl protection.

Mayor Kennedy opened the floor to public comment.

Craig Breon, Executive Director of the Santa Clara Valley Audubon Society, stated that there were factual errors contained in the Hollister Pinnacles and that he had to correct the error. He said that the news article's tone was not the Audubon Society's current tone. This is a plan that is modest in its goal and that it does not significantly impinge on development in the area of Morgan Hill. He noted that this is the first plan of its kind in the state. This in of itself is worth trying, agreeing that there is no guarantees for success. He appreciated that in 1999, the City agreed to move forward with the plan. He recommended that the Council move forward with the various aspects of the Plan as it is a worthwhile effort.

No further comments were offered.

Council Member Sellers agreed that the City needs to make an effort to try and preserve what cannot be replaced. He inquired whether the Council was precluded from approving the plan this evening.

City Attorney Leichter said that the Council was not precluded from approving the Plan. She indicated that the settlement agreement contains language that states the Plan shall be approved at the same time that the disking ordinance is approved. Should Mr. Brian supports Council approval of the Plan this evening she did not believe that there was a problem with moving forward with the approval of the plan.

Mr. Breon stated that he did not have a problem with the City moving forward with the approval of the Plan as it takes time to put the disking ordinance together. He understands that there are details to be worked out with the disking ordinance.

Council Member Carr thanked all parties involved in the development of the Plan and that he was pleased that Morgan Hill will have the first modest plan that the State has seen. It was his hope that it becomes more than just a first modest Plan and that it would become a model used throughout the state.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Approved** the Borrowing Owl Mitigation Plan.*

RECONVENE TO CLOSED SESSION

Mayor/Chairman Kennedy reconvened the meeting to Closed Session at 11:08 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 12:15 a.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session.

4. APPROVAL OF LEASE OF PERCHLORATE REMOVAL PLANT TO BE INSTALLED AT THE TENNANT WELL SITE

Action: ***No Action** taken on this item.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 12:16 a.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

ANNEXATION APPLICATION, ANX-03-01: HILL - GERA

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Motion to table application ANX-03-01: Hill - Gera

EXECUTIVE SUMMARY:

The applicant is requesting annexation of seven (7) parcels totaling 19.50 acres into the City of Morgan Hill. The project site is located on the west side of Hill Road on Jean Court, north of Pear Drive.

On May 27, 2003, the Commission voted unanimously (7-0) to recommend approval of the annexation. However, the annexation request was prematurely noticed for public hearing and consideration by the Council. The annexation request cannot be considered by the Council until: 1) the annexation map and legal description are certified by the County Surveyor's Office and County Assessor's Office; 2) pre-annexation agreements have been executed by all affected property owners, and; 3) a Code Enforcement inspection has been conducted verifying that there are no outstanding code violations. Staff will schedule the annexation application for City Council consideration when the above items have been completed.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 13

Prepared By:

Contract Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *(June 18, 2003)*

Agenda Item # 14

Prepared By:

(Assistant Planner)

Approved By:

**(Community
Development Director)**

Submitted By:

City Manager

(EXTENSION OF TIME, EOT-03-06-McLAUGHLIN-JONES)

RECOMMENDED ACTION(S):

Open/close Public Hearing
Adopt Resolution

EXECUTIVE SUMMARY: The applicant is requesting an Exception to Loss of Building Allocation allowing a one-year extension of time for five building allotments awarded under the Micro Measure P competition for Fiscal Year 2000-01 and Fiscal Year 2001-02, located north of Central Avenue between McLaughlin Avenue and the railroad tracks.

In the applicant's letter of request, he states the one-year time line was too aggressive to resolve the appeal, redesign the project, complete the lot line adjustment, make corrections, and pull permits. In May 2002, the applicant filed an appeal with the Council appealing the Commission's denial of his subdivision. The appeal process was resolved in mid-September 2002. This gave the applicant nine and half months to submit a new RPD, subdivision, and development agreement. The applicant waited five months to submit new applications. This gap was not the result of extended City processing or extended environmental delay. From September 2002 through December 2002, the City amended the Measure P Exemption Policy. The applicant could have submitted his application while the City processed the Exemption Policy change. Further, staff has submitted two detailed letters advising the applicant what needed to be submitted and has met with the applicant several times to work out issues with the project.

The applicant's project was delayed two and a half months while the appeal was being processed and one month while staff reviewed the RPD, subdivision, and development agreement applications. However, the applicant waited five and a half months to submit his applications after the appeal was resolved. Overall, extended City processing time took about three and a half months, but staff is recommending a six-month extension of time because an additional three and a half months is not a reasonable time to process the application. The Planning Commission concurred with the six-month extension of time.

Under Section 18.78.125.G of the Municipal Code, the City Council may grant an ELBA if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing. Due to the extended delays during the public hearing process, staff and the Planning Commission recommend approval of the six-month extension of time request.

The extension of time request was presented to the Commission at the May 27, 2003 meeting. The Commission voted 5-0 with two Commissioners absent to recommend approval of a six-month extension of time.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

RESOLUTION NO. 5673

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A SIX-MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR MICRO MEASURE P APPLICATION MP-00-03: McLAUGHLIN-JONES (APNs 726-24-006 & -007)

WHEREAS, the Planning Commission pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded one building allotment for application MP-00-03: McLaughlin - Jones for Fiscal Year 2000-2001 and four building allotments for Fiscal Year 2001-02; and

WHEREAS, pursuant to Section 18.78.150 of the Municipal Code, proposed residential developments must proceed according to an approved development schedule; and

WHEREAS, pursuant to Subsection B of Section 18.78.150, failure to comply with the development schedule may result in loss of building allocation; and

WHEREAS, under Section 18.78.125.G of the Municipal Code, the City Council may grant an Exception to Loss of Building Allocation (ELBA) if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing; and

WHEREAS, on June 6, 2001, the Council approved a one-year extension of time to commence construction for the one FY 2000-01 building allotment from June 30, 2001 to June 30, 2002 due to delays not the result of developer inaction. The applicant made good faith efforts to complete the project through the placement of public improvements within McLaughlin Avenue. On June 19, 2002, the Council approved a one-year extension of time that extended the deadline to commence construction of the one FY 2000-01 allotment and four FY 2001-2002 allotments from June 30, 2002 to June 30, 2003 due to delays not the result of developer inaction; and

WHEREAS, the applicant requested an Exception to Loss of Building Allocation of one year, the Council finds due to the processing of the appeal for the subdivision and staff processing time, the delays were not the result of developer inaction and allows for an Exception to Loss of Building Allocation allowing a six month extension of time for all five Measure P allotments; and

WHEREAS, such request was considered by the City Council at their regular meeting of June 18, 2003, at which time the City Council approved application EOT-03-06: McLaughlin - Jones; and

WHEREAS, testimony received at a duly noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. The approved Micro Measure P project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. Pursuant to Section 18.78.125.G of the Morgan Hill Municipal Code, the City Council hereby grants a six-month exception to loss of building allocation for five Measure P units awarded to application MP-00-03: McLaughlin - Jones. The six-month exception to loss of building allocation extends the deadline to commence construction of the five Measure P units from June 30, 2002 to December 31, 2003. Time line as approved would be reviewed for additional time extension as part of the processing of the Development Agreement.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 18th Day of June, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🔐 CERTIFICATION 🔐

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5673, adopted by the City Council at a Regular Meeting held on June 18, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

A F F I D A V I T

I, **Jerry Jones**, applicant, hereby agree to accept and abide by the terms and conditions specified in City of Morgan Hill Resolution No. 5673.

Jerry Jones, Applicant

Date



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

DEVELOPMENT AGREEMENT AMENDMENT DAA 00-08: BERKSHIRE-SINGH

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting an amendment to the development agreement for a four-unit single-family project, located on the northeast corner of Hale Avenue and Llagas Road, to allow for a six-month Exception to Loss of Building Allotment (ELBA).

The applicant was awarded four building allotments under the 2000 Micro Measure P Competition. One building allotment was for FY 1999-2000; the remaining three allotments were for FY 2000-01. In June 2000, the Commission initiated and the Council approved a 90-day ELBA for the FY 1999-2000 allotment. In September 2000, the applicant was granted an additional nine months to commence construction of the single allotment, thereby establishing parallel development schedules for all four units. In June 2001 and June 2002, the applicant was awarded two subsequent ELBAs, extending the deadline to commence construction of the four units to June 30, 2003.

The applicant is currently requesting six additional months to commence construction of all four allotments. The applicant has worked diligently to continue the processing of the development, but has faced extended processing delays, particularly with the County. As a condition of the subdivision map approval, the applicant was required to obtain County approval of improvements to Hale Avenue. County review has resulted in extended processing delays, not a result of developer inaction. The applicant has now obtained County approval for the Hale Avenue improvements, and the final map and improvement plans are in final form. The applicant has also applied for building permits. However, the applicant still needs to provide the City with subdivision bonds and insurance, and address building permit plan check comments. Therefore, the applicant will not be able to meet the June 30 deadline.

Under Section 18.78.125.G of the Municipal Code, the City may grant an extension of time, or Exception to Loss of Building Allocation (E.L.B.A.) if it finds that *"the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing."*

The six-month extension of time is requested due extended processing delays, not the result of developer inaction. At the May 27 Commission meeting, the Commission recommended approval of the request by a 5 to 0 vote (with two members absent). However, due to the unprecedented number of ELBA requests made by the applicant, the Commission included language in the resolution strongly encouraging the applicant to proceed with development in a timely manner and to request no further extensions of time. For the Council's reference, copies of the May 27 Commission staff report and draft minutes are attached. Should the Council decide to approve the development agreement amendment, an approval Ordinance is attached.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 15

Prepared By:

Associate Planner

Approved By:

Community
Development Director

Submitted By:

City Manager

ORDINANCE NO. 1622, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1568, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-01: BERKSHIRE-SINGH TO INCORPORATE A SIX-MONTH EXCEPTION TO LOSS OF BUILDING ALLOTMENT (APN 764-23-054; DAA-00-08: BERKSHIRE - SINGH)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 01-17, adopted April 25, 2000, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 00-01: Berkshire-Singh	1 for FY 1999-2000 3 for FY 2000-2001

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the approved development agreement amendment approved under Ordinance No. 1568 to allow for a six-month extension of time for 4 building allotments, due to delays not the result of developer inaction. Delays in the project processing have occurred due to extended County processing of the improvement plans for Hale Avenue. An Exception to Loss of Building Allocation is granted, extending the deadline for building permit issuance for the four Measure P units from April 1, 2003 to September 30, 2003, and extending the deadline for commencement of construction of the four units from June 30, 2003 to December 30, 2003.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty

(30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. Exhibit B of the development agreement is amended to read as follows:

EXHIBIT "A"

**DEVELOPMENT SCHEDULE FOR MP-00-01: BERKSHIRE - SINGH
FY 1999-2000 (1 UNIT), FY 2000-2001 (3 UNITS)**

I. SUBDIVISION AND ZONING APPLICATIONS	
Applications Filed:	May 30, 2000
II. SITE REVIEW APPLICATION	
Application Filed:	November 1, 2000
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	November 15, 2000
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	
FY 1999-2000 (1 unit):	February 1, 2003 March 24, 2003
FY 2000-2001 (3 units):	February 1, 2003 March 24, 2003
V. BUILDING PERMITS	
Obtain Building Permits:	
FY 1999-2000 (1 unit):	April 1, 2003 September 30, 2003
FY 2000-2001 (3 units):	April 1, 2003 September 30, 2003
Commence Construction:	
FY 1999-2000 (1 unit):	June 30, 2003 December 30, 2003
FY 2000-2001 (3 units):	June 30, 2003 December 30, 2003

Failure to obtain building permits and commence construction by the date listed in Section V. above, shall result in the loss of building allocations. Failure to submit a Final Map Application or a Building Permit Submittal, Sections III. and IV., respectively, six (6) or more months beyond the filing dates listed above, shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV., respectively, may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 2 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18th Day of June 2003, and was finally adopted at a regular meeting of said Council on the 2nd Day of July 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1622, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 2nd Day of July, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *June 18, 2003*

DEVELOPMENT AGREEMENT AMENDMENT DAA 01-07: Cochrane Mission Ranch

RECOMMENDED ACTION(S):

Open/close Public Hearing
Waive the First and Second Reading of Ordinance
Introduce Ordinance

EXECUTIVE SUMMARY:

A request for approval of a development agreement amendment to allow for a 6-month extension of time for 15 allocations (awarded for FY 2002-03) granted to Mission Ranch project located on the south side of Cochrane Rd., east of Mission View Dr. and west of Peet Rd. The project has completed 113 units of what will ultimately be a development of approximately 309 homes. In the 2000 MP competition the project received 15 building allocations for FY 2002-03.

Under Section 18.78.125.G of the Municipal Code, the City may grant an extension of time, or Exception to Loss of Building Allocation (E.L.B.A.) if it finds that *"the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing."*

Attached to this report is a letter from the applicant which details the delays encountered by the project. The project was initially delayed for six months for environmental review. Delays were also encountered in the processing of the project improvement plans which involved PG & E and the Santa Clara Valley Water District. In March 2003, the City of Morgan Hill requested a well site within the project on Peet Rd. Accommodating the well site has required additional alterations to the project's improvement plans.

On May 27, the Planning Commission considered the extension request and concurred that reasons given for the delay were outside of the applicant's control. The Commission unanimously voted in favor of granting a 6-month extension to the 15, FY 2002-03 building allocations. The Planning Commission staff report and minutes are attached for Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 16

Prepared By:

Senior Planner

Approved By:

Director of Community Development

Submitted By:

City Manager

ORDINANCE NO. 1623, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1535, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-21: MISSION VIEW-DIVIDEND HOMES TO INCORPORATE A SIX-MONTH EXCEPTION TO LOSS OF BUILDING ALLOTMENT (APNs 728-32-001, 002, 003 & 728-33-001; DAA-01-07:Cochrane-Mission View)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 01-05, adopted February 27, 2001, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 00-21: Mission View-Mission Ranch	15 building allotments

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the approved development agreement approved under Ordinance No. 1535 to allow for a six-month extension of time for 15 building allotments, due to delays not the result of developer inaction. Delays in the project processing have occurred due to extended environmental review, permitting and review of outside agencies and accommodation of a City well on the project site. An Exception to Loss of Building Allocation is granted, extending the deadline for building permit issuance for the 15 building allotments awarded for fiscal year 2002-03, from May 8, 2003 to September 30, 2003, and extending the deadline for commencement of construction of the fifteen units from June 30, 2003 to December 31, 2003.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. AMENDED DEVELOPMENT AGREEMENT. The amended development agreement, attached as Exhibit A, shall replace the agreement approved under Ordinance No. 1535.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18th Day of June 2003, and was finally adopted at a regular meeting of said Council on the 2nd Day of July 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1623, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 2nd Day of July, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *June 18, 2003*

DEVELOPMENT AGREEMENT AMENDMENT DAA 02-01: CHURCH – SOUTH COUNTY HOUSING

RECOMMENDED ACTION(S):

Open/close Public Hearing
Waive the First and Second Reading of Ordinance
Introduce Ordinance

EXECUTIVE SUMMARY:

A request for approval of a development agreement amendment to allow for a 6-month extension of time for 36 allocations granted to the Church Street apartment project. The project site extends from Monterey Road to Church Street, immediately south of the Post Office facility. The project will consist of 72 affordable apartment units. The project was awarded 36 allocations in the 2001 affordable Measure P competition for 36 units to be constructed in Fiscal Year 2002-03. An additional 13 units were awarded in 2002 for Fiscal Year 2003-04. The remaining 23 units are replacement of existing substandard housing on the project site. In June 2002, the City Council approved a development agreement for the 72-unit project to be phased over the two fiscal years of the Measure P allotment.

Under Section 18.78.125.G of the Municipal Code, the City may grant an extension of time, or Exception to Loss of Building Allocation (E.L.B.A.) if it finds that *"the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing."*

The applicant has proceeded in a timely manner having obtained zoning and site and architectural approvals. Construction plans have been submitted and are currently in Plan Check review. As outlined in the applicant's attached letter dated April 24, 2003, the delay in the start of the project has been in obtaining a tax credit allocation necessary to obtain financing. The applicant has since learned that they were successful in securing a tax credit. With the funding now in place, South County expects to be under construction by October 2003.

On May 27, the Planning Commission considered the extension request and concurred that reasons given for the delay were outside of the applicant's control. The Commission unanimously voted in favor of granting a 6-month extension to the 36, FY 2002-03 building allocations. The Planning Commission staff report and minutes are attached for Council's reference.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 17

Prepared By:

Planning Manager

Approved By:

**Director of Community
Development**

Submitted By:

City Manager

ORDINANCE NO. 1625, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1564, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-31: CHURCH – SOUTH COUNTY HOUSING TO ALLOW FOR A SIX MONTH EXTENSION OF TIME FOR 36 BUILDING ALLOTMENTS RECEIVED IN THE 2001 RDCS COMPETITION. (APN 817-02-002, 003, 004, 005, 022, 023 & 038)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 01-72, adopted September 25, 2001, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-00-31 (Church St. Apartments)	36

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the approved development agreement approved under Ordinance No. 1564 to allow for a six-month extension of time for 36 building allotments, due to delays not the result of developer inaction. Delays in the project processing have occurred due to not obtaining a tax credit allocation necessary to obtain financing. The California Tax Credit Allocation Committee process is very competitive and the project was unable to obtain a tax credit in the first application submitted in July 2002. A second application was submitted on March 26, 2003 and a tax allocation was awarded to the project in June 2003. An Exception to Loss of Building Allocation is granted, extending the deadline for building permit issuance for the 36 building allotments awarded for fiscal year 2002-03, from April 1, 2003 to September 30, 2003, and extending the deadline for commencement of construction of the fifteen units from June 30, 2003 to December 31, 2003.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. AMENDED DEVELOPMENT AGREEMENT. The amended development schedule, attached as Exhibit A, shall replace the schedule approved under Ordinance No. 1564.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18th Day of June 2003, and was finally adopted at a regular meeting of said Council on the 2nd Day of July 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1625, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 2nd Day of July, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

AMENDED DEVELOPMENT AGREEMENT EXHIBIT "B"

DEVELOPMENT SCHEDULE MP-00-31: Church - South County Housing
FY 2002-2003, FY 2003-2004

- | | | |
|------------------------|--|---|
| I. | SUBDIVISION AND ZONING APPLICATIONS | |
| | Applications Filed: | July 1, 2001 |
| II. | SITE REVIEW APPLICATION | |
| | Application Filed: | July 1, 2001 |
| III. | BUILDING PERMIT SUBMITTAL-2002-03 | July 1, 2002 April 14, 2003 |
| | Submit plans to Building Division for plan check: | |
| IV. | PULL BUILDING PERMITS-FY 2002-03 | April 1, 2003 September 30, 2003 |
| | <u>36 permits</u> must be pulled from the Building Division: | |
| V. | COMMENCE CONSTRUCTION-FY 2002-03 | June 30, 2003 December 31, 2003 |
| | Construction must have begun on 36 permits. | |
| VI. | BUILDING PERMIT SUBMITTAL 2003-04 | April 1, 2002 |
| | Submit plans to Building Division for plan check: | |
| VII. | BUILDING PERMIT SUBMITTAL 2003-04 | July 1, 2003 |
| | Submit plans to Building Division for plan check: | |
| VI. | PULL BUILDING PERMITS-FY 2003-04 | April 1, 2004 |
| | <u>13 permits</u> must be pulled from the Building Division: | |
| VII. | COMMENCE CONSTRUCTION-FY 2003-04 | June 30, 2004 |
| | Construction must have begun on 13 permits. | |

Failure to commence construction by the dates listed above, shall result in the loss of building allocations. Submittal of a Final Map Application or a Building Permit, two (2) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal, Building Permit Submittal or Pull Permit deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 25 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

~~City agrees to conditionally issue all building permits and approvals on or before February 1, 2003. City will issue the 13 Measure P 2003-2004 permits on or before February 1, 2003, in order to meet State requirements for awarding Low Income Housing Tax Credits. However, Developer agrees not to take any action to begin construction upon reliance on said Measure P permits until after April 1, 2003.~~



CITY COUNCIL STAFF REPORT

MEETING DATE: June 18, 2003

ZONING AMENDMENT APPLICATION, ZAA-98-16: CONDIT-HORIZON LAND (THE FORD STORE)

RECOMMENDED ACTIONS:

1. **Approve** Mitigated Negative Declaration
2. **Motion** to waive the Reading in Full of Ordinance No. 1621, New Series
3. **Motion to Introduce** Ordinance No. 1621, New Series by title only (Roll Call Vote)

EXECUTIVE SUMMARY:

The request to amend the Horizon Land Planned Unit Development (PUD) was considered by the City Council at its meeting of June 4, 2003. The City Council continued this item to its meeting of June 18, 2003. The staff report for this item was not completed in time to be included in the Council's agenda packet. Staff will make the staff report available as soon as it is completed, delivering the report if necessary.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.

Agenda Item # 18

Prepared By:

Council Services &
Records Manager/
City Clerk

Submitted By:

City Manager